

CENTRE-STATE RELATIONS

Q: Examine the demand of greater state autonomy and also its impact on the smooth functioning of the Indian polity.

Indian Federal Structure is a pleasant admixture of unity of India on one part and states' autonomy on the other. Greater State autonomy is demanded in order to **deepen the –Democratic Consciousness** among people to achieve the twin ideals of SOCIAL JUSTICE & EQUALITY.

However, the centralized **Planning process, frequent use of Article 356, Governor's office has resulted** into the **overdependence of states on the centre in financial and other matters**. This has retarded the socialistic goals of development and further decentralization. It has also left certain local aspirations unmet.

The autonomy to states will improve the overall functioning of Indian polity by reinforcing the **spirit of Cooperative-Federalism**. However, as **Sarkaria Commission** has pointed out that there are **still 'Separatist Tendencies'**. This may harm the integrity of India. This view is also held by NCRWC.

Also it may **hinder the nationalistic viewpoint on various issues** especially the contentious issues **like inter-state river water dispute, trade freedom, parochial tendencies etc**. The Balancing of Resources between the More developed and developing states may be disturbed, thus **prohibiting –balanced regional development**. The Political implications of such a move may not be visualized presently.

Thus, the demand for Greater state autonomy can only be justified on the grounds that it does not go against the **'national interests'** and **'constitutional obligations'**. Also greater autonomy shouldn't mean a weak national government rather a non-dominating **'national government'**.

Future Indian Federalism shouldn't be based on division and separation but on **–Collaboration and Cooperation**. As a constitution is an instrument of national Cooperation, the spirit of constitution is as necessary as the instrument itself.

CONSTITUTIONAL PROVISIONS

The distribution of powers is an essential feature of federalism. A federal constitution establishes the **dual polity** with the Union at the centre and the States at the periphery, each endowed with the **sovereign powers** to be exercised in the field assigned to them respectively by the constitution. The one is **not subordinate** to the other in its own field; the authority of one is co-ordinate with the other. In the Indian federal set-up, the constitution divides powers between centre and states as:

1. Administrative
2. Legislative
3. Financial

ADMINISTRATIVE RELATIONS

The success and strength of a federal polity depends as much on **cooperation and coordination between the two levels** of government, as it does on a distribution of powers and functions between them. This is in particular, true and administrative relations in a federation. Coordination between Union and states is ensured through providing the Union **some means of control over states**.

During the **time of Emergency** Indian constitutional works like a unitary government. In normal times, there are constitutional provisions which ensure the control of the union over the states. **Some of the mechanisms are:-**

Power to appoint and dismiss the **Governor** (Articles 155-156), power to appoint **judges** of HC, members of **State PSC** (Articles 217, 317)

Article 256 provides that the executive power of the State shall be so exercised as to ensure **compliance with the laws** made by the Parliament and executive power of the Union shall also extend to the **giving** of such **directions** to a state as it may deem essential for the purpose.

Further **Article 257** provides that States must exercise their executive power in such a way so as not to impede or prejudice the exercise of the executive power of the union in the State.

The **powers of the union** government also extend to giving **directions to a State** in 2 specific matters:-

1. Construction and maintenance of **means of communication** which are declared to be of national or military importance.
2. Measures to be taken for the **protection of the Railway** within the States.

The constitution prescribes and **coercive sanction** for the **enforcement of its directions** through **Article 356**.

DELEGATION OF UNION FUNCTIONS TO THE STATES

Under **Article 258 (1)**, Parliament with the consent of the State government can **entrust** to it any matter falling within the executive powers of the Union.

Under **Article 258(2)** Parliament is empowered to **use State machinery** for the enforcement of Union Laws. For such purpose, it can confer powers or **impose duties** on State functionaries.

Therefore under clause (1) delegation of power is made with the consent of the state, whereas consent of the state is not necessary under clause (2), and such delegation is done by the Parliament by Law. This implies that **Parliament can interfere** in the State administration, **even without the consent** of the State.

State government has also the power to **delegate its functions to the Union** and its officers. Article 258 (A) provides that **Governor** of the State **with the consent of GoI**, entrust to the Government, such functions to which the executive power of State extends.

All India Services are common to both the Union and the States. The officers are these services are **appointed and regulated** by the **Centre** and are placed in various States.

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Article 261 provides that **full faith and credit** shall be given throughout the territory of India to public acts, records and judicial proceedings of the Union and every State.

Article 261 (3) declares that final judgment or orders delivered or passed by civil courts in any part of territory of India can be executed anywhere in the country.

Article 262: Adjudication of disputes relating to waters of **inter-state rivers or river valleys**. Article 262 (2) provides that Parliament may by Law provide that neither the SC nor any other court shall exercise jurisdiction in respect of any such dispute.

Under **Article 263**, President has power to establish **Inter-State Councils**. These Councils have duty of inquiring into and advising upon disputes which arises between the States. These councils also investigate and discuss the subjects of common interest between the Union and the States or between two or more states. The President has so far established **central council of Health**, a central council of **local self-government** and a **Transport Development** Council.

Grants in-aid (Article 275): Parliament has power to make such grants as it may deem necessary to give financial assistance to any State which is in need of such assistance (**Article 275**).

Parliament has power to constitute an **Inter-State Commerce Commission (Article 307)** and empower it to execute such functions as it may deem fit.

LEGISLATIVE RELATIONS

There are **2 types** of legislative relations between centre and states
with respect to Territory
with respect to Subject matters

w.r.t. TERRITORIAL POWERS

- × **Art 245 (1):** Parliament is competent to make laws for whole or any part of territory of India. Legislature of State may make laws for whole or any part of State.
- × Laws made by Parliament can have **extra-territorial effect** (outside of Indian Territory). Laws of Parliament also govern the Indian Subjects and their property in any part of the world. **Art 245 (2)**
- × For certain **UTs** like **Andaman & Nicobar, Lakshadweep** and **Dadra & Nagar Haveli**, regulations made by the **President** have the same force as the Acts of Parliament and such regulations may repeal or amend a law made by Parliament in relation to such territory.
- × The application of Acts of Parliament to any **scheduled Area** may be barred or modified by **notifications** made by the **Governor**.
- × **Governor of Assam** may direct that any other Act of Parliament shall not apply to an autonomous district or region. Similar powers have been vested with President regarding States of Meghalaya, Tripura and Mizoram.

w.r.t. LEGISLATIVE POWERS

- × In **distributing subject matters** between the Centre and States, our constitution makers followed **Canadian scheme**. However they added one more list to it,

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Concurrent List. (GoI Act 1935 had 3 fold enumeration: Federal, Provincial & Concurrent). 3 Lists are: Union List, State List and Concurrent List.

- × Subjects mentioned in the Union List are of **national importance** and only Parliament is competent to make laws on these subjects. For State List, only the States have exclusive power to make laws.
- × Concurrent List is a **-Twilight Zone**, where both the Union and the States are competent to make law, without any conflict. In case of a conflict between the Central law and the State law, the **Central law prevails** over the state law.
- × **Residuary Powers (Article 248):** Parliament has **exclusive** power to make laws on the subjects not enumerated in any of the 3 Lists (Entry 97 of Union List). Such powers include the power of making any law **imposing a tax** not mentioned in any of the 3 Lists. Whether a particular subject falls under the residuary power or not is **determined by courts**.
- × To determine whether a particular enactment falls under one Entry or the other, it is the **Pith and Substance** of such enactment and not its legislative level that is taken account of. Pith and Substance here **means the true object of the legislation** or statute, and the competence of Legislature which enacts it.
- × **Colorable Legislation:** The motives of the Legislature are, otherwise, irrelevant for determining whether it has transgressed the constitutional limits of the Legislative power. This principle is based on the maxim that **you cannot do indirectly what you cannot do directly**.

w.r.t. PARLIAMENT'S POWERS TO MAKE LAWS IN STATE LIST

- × Under **Art 249, in the national interest, Parliament** has the Power to make laws w.r.t. any matter included in the **state list**, for a temporary period, **if Rajya Sabha** passes a **resolution** supported by **2/3rd of the members** present and voting in that respect. This provision has been used thrice in 1950 (black marketing), 1951 (evacuee properties) and 1986.
- × Under the **Proclamation of Emergency, Article 250** empowers the Parliament to make laws for the whole or any part of the territory of India w.r.t. all matters in the **State list**. Such a law however shall cease to effect on the expiration of **6 months** after the proclamation of emergency has ceased to operate.
- × Under **Article 252**, if the **Legislatures of two or more States** pass a resolution to the effect that it is desirable to have a Law passed by Parliament on any **matters in State List common to these States**, Parliament can make Laws in that respect.
- × Under **Article 253**, Parliament has power to make any law for the whole or any part of the territory of India for implementing **treaties and international agreements** and conventions.
- × Under **Article 256**, Parliament is empowered to make laws w.r.t. all matters in the State list when there is **failure of constitutional machinery** of the State **under Article 356**.

FINANCIAL RELATIONS

These relations are related to distribution of taxes as well as non-tax revenue and power of borrowing. **Finance Commission (Article 280)** recommends to the President on the distribution of net proceeds of taxes between the centre and states. Constitution divides the taxing powers between the Centre & states in following way:

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Parliament has an exclusive power to levy the taxes enumerated in the Union List. There are **15** such taxes.

State Legislature has exclusive power to levy the taxes enumerated in the state list. There are **20** such taxes.

Both the Parliament and the state legislature can levy the taxes enumerated in the Concurrent List. There are **3** such taxes.

The **residuary power of taxation** (that is, the power to impose the taxes not enumerated in any of the three lists) is vested in the **Parliament**. Under this provision, the parliament has imposed gift tax, wealth tax and expenditure tax.

Parliament can provide for **grants-in-aid** to states by the Centre. Such sums are charged on the Consolidated Fund of India (Article 275).

The centre can make **public purpose grants to states** and to any institution within the states (Article 282).

The Centre can **grant loans to states** and also give guarantee in respect of loans raised by them (Article 293).

Parliament can impose **restrictions on Inter-state trade** and commerce in the public interest (Article 302).

The **accounts of the states** shall be kept in such form as prescribed by the president on the advice of the Comptroller and Auditor-General of India (Article 150).

PROBLEMS OF CENTRE-STATE RELATIONS

IN ADMINISTRATIVE RELATIONS

In Normal Times: Control exercised through the Governor

Centre-State tensions here have arisen in the **matter of appointment, transfer, removal and functioning of the Governor**. States have alleged political leaders/ **favourites of the party in power at the center** are appointed governors. Further, no consultation takes place with the C.M, **especially since 1967** e.g. Appointment of Nityanand Kanungo in Bihar became controversial. C.P.N. Singh was appointed Governor of Haryana in 1980 in spite of the C.Ms opposition.

G.D. Tapase was unceremoniously transferred from UP to Haryana. P.D. Patwa was dismissed by the President as Governor of Tamil Nadu in 1980. Fatima Beevi was forced to resign as Governor of Tamil Nadu in 2002, after she **failed to keep the center informed about arrests of two central ministers** by the state government and then when asked for a report by the center, followed the views of the state government in the matter, than exercise discretion.

1. The **functioning of the Governor too has attracted criticism of the states**. It mainly pertains to their **discretionary powers** e.g. making a report to the center calling for president's rule when none was warranted and **reserving bills** for consideration of the president (Art. 201) including when no reference was required. Other problems relate to **selecting a Chief Minister** which has been criticized as being guided by political considerations, dismissing a chief minister without giving him opportunity to prove his majority e.g. removal of N.T.R from Andhra Pradesh in 1984 by Ram Lal, giving inadequate time to prove majority

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- 2. Creation of new states** has in recent times created tensions e.g. Bihar assembly did not endorse creation of Jharkhand out of it in 2000, yet it was created. Further Bihar government alleges it has not been adequately compensated in the matter.
- 3. States have alleged partisanship by center in resolving inter-state river water dispute.** A bigger problem here is the river inter-linking project of the center.
- 4. States are criticizing the center for forcing them to accept reforms** e.g. in power and irrigation sectors, through financial inducements.
- 5. Law and Order management** – Deployment of central forces without request of the state. States are today refusing to accede to the central proposal for creating a central law enforcement agency to tackle federal crime.
- 6. In era of coalitions,** political ‘fact finding’ teams to opposition ruled states by the center has been resented.
- 7. Planning commission** has been accused to have encroached into executive authority of states.
- 8. Direction to State Governments:** Some state government see power of the Union to issue them directives under Article 256 and 257 as an irritant and as anti-federal and call for this deletion or drastic amendment. Some state governments have criticized Article 365 as having tyrannical potential and thus should be deleted.
- 9. Mutual delegation of functions:** States resist power of center under a parliamentary law, to ‘impose’ it functions on them, without their consent (Art 258 (2)).
- 10. All-India services:** states regard them as a hang out of British administration. They dislike having officers at the helm of their officers who do not have full loyalty solely to them and over whom they do not have exclusive and full control.

During Emergencies: The main target of criticism here relates to Article 355 and Article 356

- In Article 355 states dispute Centers claim to the **right to deploy its forces** in a state without their consent.
- Taking over administrative (and/ or legislative) powers** of the state under Art 356 has been criticized by the states as anti federal both in regard to its frequency and manner of use.
- Imposition of national emergency under Art 352** on the ground of internal disturbance e.g. in June 1975 was criticized in the mid -70s. However, the provision has not been invoked ever since the safeguard incorporated by the 44th amendment as has ceased to evoke criticism.

IN LEGISLATIVE RELATIONS

- Some state govt. have suggested excluding from **Art 246**, phrases that give **supremacy to the Union Legislative power** over that of the states e.g. parliamentary law on a **concurrent item** must have concurrence of a state legislative
- Others have called for **revision & even abolition of Art 254** (repugnancy in concurrent sphere) e.g. parliamentary should have the power to override subsequently, a repugnant state law.
- States have objected to **residuary powers** being with the Union legislative and call for its transfer to the state or concurrent list. They base it on the US and Australian experience where states have residency powers.

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4. Some state govt. complain in practice union has indiscriminately used its legislative power under list II e.g. police in list II has been made subject to **deployment of armed forces** of or any other force controlled by the union.
5. Some states say scheme of **distribution of powers** is too much biased in favour of the Union. They say union should have jurisdiction over only defence, foreign affairs, currency and communication.
6. Some states have demanded **abolition of concurrent list** and transfer of all its item to the state list because: It is anti-federal and that the center has operated it unilaterally as a 2nd union list.
7. States say that **73rd and 74th Amendments** were an encroachment into the states sphere of legislation. The center however justifies it as firstly, states were not observing the spirit of Art. 40 and secondly, these amendments received consent of states, and thirdly, were only broad frameworks for states to legislate their own laws.
8. Some states have called for **deleting Art 249** under which parliament can legislate on a state item. They say **2/3 majority in Rajya Sabha** may not be a representative view of the states, and that the law can be extended indefinitely beyond the initial one year.
9. A few states say **prior consent of affected state** or states should be obtained before invoking **Art 3**.
10. Some state government say **Art 368** be amended to give greater say to state in **amendment** e.g. all general amendments should need satisfaction by atleast 50% of states; those putting to basic features of the constitution should need satisfaction by atleast 2/3 of states.
11. Through improper use of its power under **Article 201**, Union government tries to **dictate its policy to state legislatures**.

IN FINANCIAL RELATIONS

The basic problem here is state Financial resources allocated to them are **incommensurate to their developmental responsibilities**. This has made them **dependent on the Union** for financial resources and in turn has led to encroachment of the former into their sphere, and erosion of their own authority and initiative. Center on the other hand says its **own revenues** are mostly consumed by **rigid expenditure** e.g. defence and interest payments. States also do not manage their finances well.

- 1 The **divisible pool** has been artificially kept small.
- 2 States complain about raising **administered prices** e.g. of coal, unilaterally by the Union, instead of raising excise duties that would have been shareable.
- 3 States demand **more royalty to be paid** to them for minerals being extracted from their territory e.g. crude, natural gas, and coal.
- 4 Unilateral **raising of salary and D.A**, latest under the VI Pay Commission has burdened their revenues. Some states call for Union sharing this additional burden.
- 5 Apart from the problem of **vertical imbalances**, the constitutional remedy i.e. the **Finance Commission** has also been criticized e.g. it follows the **gap filling approach**, that encourages fiscal indiscipline; 'need' assessment is not rational, states are not consulted in its composition and terms of reference.
- 6 Financial transfer through the **planning commission** and direct transfers by Union Ministries have overshadowed the Finance Commission.

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- 7 With regard to **central assistance for disaster management**, states criticize the distinction made between droughts on the one hand and floods and cyclones on the other, the procedure to decide central assistance is time consuming and subjective.
- 8 State share in **market borrowing** vis-à-vis centre's has been low. Relatedly, States have **no control over the vast resources and policies** of banks and financial institutions.
- 9 **Borrowing powers of states** are unduly restricted by the constitution e.g. cannot borrow outside India, and need central approval if have an outstanding loan to center.
- 10 Complete **centralization of forex** has created difficulties for state especially as they are situated away from Delhi or Bombay

RECOMMENDATIONS OF SARKARIA COMMISSION

The central theme of the criticism leveled before the Commission against the working of Union-State legislative relations is '**over-centralization**'. The commission recommended:

FOR ADMINISTRATIVE RELATIONS

1. Sarkaria held the **office of the Governor** indispensable. He gave following recommendations to remove the criticism against the office:
 - a. Appointment should be in consultaion with state CM
 - b. Normally, full 5 years term should be allowed. However, removal or transfer, if necessary should also be consultation with the CM.
 - c. Suggested certain qualifications for the incumbent.
 - d. The President should decide a Bill reserved for his consideration within 3 months
 - e. Governor's report relating to Art. 356 should be a speaking document.
 - f. At least some days be given to a CM to prove his majority.
2. Meaningful **consultation to remove misgivings** is needed between the center and states before introducing IAS, river inter-linking, decentralised foodgrain procurement, protection of culture and ensure and disability management. States too need to be mindful of the national interest.
3. Sarkaria said **power to give directions is not anti-federal**. Article 256 & 257 embody the principle of executive supremacy of the union. In our polity, several union laws are to be administered by states, unlike in a dual polity like the USA. **Art 256** merely seeks to ensure states do actually carry them out, than leave it to their goodwill. **Article 257** aims at ensuring **harmonious exercise of their respective executive power** by the Union and States and vesting supremacy with the Union, in case of irreconcilable differences between the two on initial issue.
4. **Art. 258**, Sarkaria said, was a manifestation of **cooperative federalism**. Securing **enforcement of Union and state laws** through separate agencies could be expensive and conflict power. Thus, the Constitution opted to have Union laws enforced through state machinery.
5. Sarkaria did not feel **AIS** (All India Services) were irrelevant rather they are as much relevant today as earlier. No state should be allowed to opt out of them, and **more AIS should be created**.

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6. Sarkaria supported Union's legal ability to **deploy its armed forces** in a state without a request by latter, and take whatever other steps are necessary to suppress the disturbance in discharge of its duty under Art. 355.
7. Sarkaria **regarded Art 356 as a drastic power**. Depending on its proper use or not, it can be a safety mechanism for the system as well as **destroy the constitute equilibrium** between the Union and the states. To prevent the latter, it illustrated **proper/ improper grounds** for imposition of Art. 356. The power is to be used sparingly, as a **last resort**, after taking all possible steps to prevent (355) or rectify a breakdown of Constitution. Next a **specific warning** be issued to the state (this was done in the case of Tamil Nadu in 2001); only then may it be reported to.
8. To resolve problems, and to coordinate policy and action, **ISC (Inter-State Council)** should be used more effectively both by the Union, as also the states.

FOR LEGISLATIVE RELATIONS

1. Sarkaria said in any federal polity, laws of the **two levels of government**, in their own sphere, may be inconsistent. It is to tackle such a situation that **Art. 246 and 254 ensure federal supremacy**. It **avoids conflicts and harmonizes** union and state laws of parliamentary enactment on a concurrent of the states, union supremacy would be inverted into state supremacy. Federal legislative supremacy also exists in the US, Canada, Australia and West Germany.
2. Sarkaria said that **states have no inherent claim on residuary powers**. Residuary powers can also not be turned over to the concurrent sphere as they include power to impose a residuary tax, which if put in the concurrent sphere would lead to double taxation and federal friction. However, **non-tax residuary powers** may be transferred to the concurrent sphere.
3. Sarkaria said that **maintenance of public order by use of armed forces** of the union has always been within the exclusive legislative competence of the union. Both ARC and Sarkaria said that under Art 355, Union has the suo moto competence to use its armed police forces in aid of civil power. Thus it said, there is no curtailment of state's powers.
4. States called for a **constitutional requirement of consulting them before legislating in the concurrent field**. Sarkaria commission agreed that consultation with states is needed. **Art. 249** has the provision had built in safeguards against misuse e.g. approval of Rajya Sabha and that the resolution specifies the state item on which parliament can legislative.
5. Sarkaria noted that the **use of Article 3 till date** either had the consent of states or was based on views of a dedicated commission. Requiring state consent would make the Act unworkable and against intention of constitution framers. Art 3 should be retained, unchanged.
6. Regarding **Art 368**, Sarkaria did not accept the demand saying it would rigidize the process of amendment making the constitution out dated.

FOR FINANCIAL RELATIONS

1. Sarkaria commission called on the Union to **periodically revise duties** under Art 268 & 269.
2. Sarkaria said **taxation powers** should not be made concurrent.
3. **Incentivizing reform** is an aspect of cooperative federalism and also has an element of voluntary acceptance.

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4. Sarkaria commission called upon the **finance commission** to itself look into them. Finance Commission itself said consideration do not impair choice of approach. Sarkaria appreciated center's steps towards consulting states in finalizing terms of reference of the Finance Commission.
5. Both **planning commission** and Finance Commission have their roles. Further, plan transfers follows a **predetermined formula** approved by the NDC, and are not literally discretionary, their large size is a natural outcome of growth of development related growth needs of states, and other transfers canalized through the finance ministry are purpose specific and do not carry much repayment liability. Thus, the criticism about discretionary transfers is more theoretical.
6. As regards **borrowing powers of states**, Sarkaria recommended flexibility by distinguishing between short-terms (less than 1 year) and **medium and long-term loans**. Union should readily consent to states borrowing from banks for less than 1 year. As these loans are costlier than those from RBI and have to be individually negotiated, it will shore up fiscal discipline in states.
7. Sarkaria accepted center's position that **external assistance** received by it was channeled by it to states as part of its integrated resource management, than take a segmented now.
8. Sarkaria said **natural calamities** should be seen as a national problem, but states should still bear a significant share of total relief expenditure burden. Union should only supplement.

80th Amendment of **2000** and the **88th Amendment** of **2003** have introduced major changes in the centre-state financial relations. 80th Amendment was enacted to give effect to the recommendations of the **10th Finance Commission**. The commission recommended that out of the total income obtained from certain central taxes and duties, 29% should go to the states. This is known as the **Alternative Scheme of Devolution** and came into effect retrospectively from April 1, 1996. This amendment deleted article 272 (taxes levied and collected by the centre and may be distributed between the Centre and states). The 88th Amendment has **added a new Article 268-A**; dealing with **service tax**. It also added a new subject in the Union List-entry 92-C (taxes on services).

COORDINATION MECHANISMS

Following mechanisms are available:

1. **Inter-State council under Article 263.** In exercise of this Presidential power, some bodies as central council of Health and local self-government have been established. An ISC was created in 1990 too.
2. An **Inter-State commerce commission** may be created under Article 307 to ensure freedom of trade, commerce and inter course throughout the territory of India. It has not been set up so far.
3. Planning Commission and NDC
4. Annual conference under auspices of the Union e.g. of Chief Secretaries, DGPs
5. **National Integration Council** that goes beyond merely center and states and seeks to mobilize civil society too on natural problems.
6. Regional parties as coalition partners at the center.

INTER-STATE COUNCIL

On the issue of creating a forum for co-ordination of intergovernmental relations, constitutional experts are of the view that the Inter-State Council (ISC) needs to be **substantially strengthened and activised** as the key player in intergovernmental relations. It must **meet at least thrice a year** on an agenda evolved after proper consultation with States. If decision by **consensus** does not work in the Inter-State Council, it may be **taken by majority** in matters of national concern. In other areas, an Empowered Committee of ministers may be asked to study and report **within a prescribed time-frame** a more acceptable way of resolving the problem.

The ISC **must be empowered to follow up the implementation** of its decisions for which appropriate statutory provisions should be made. The Government will be well advised to evolve an **appropriate scheme to utilize the full potential of ISC** in harmonizing Centre-State relations which has become urgent in the changed circumstances. **Issues of governance** must as far as possible be sorted out through the political and administrative processes rather than pushed to long-drawn adjudication in Court. Inter-State Council appears to be the **most viable, promising Constitutional mechanism** to be developed for the purpose provided it is properly restructured and duly empowered.

The present status and function of the Inter-State Council set up through a Presidential Order in 1990 are as follows: **The Council is a recommendatory body.** The meetings of the Council are held in camera, and all questions, which come up for consideration of the Council in a meeting, are decided by consensus, and the decision of the Chairman as to the consensus is final. The **following duties have been assigned** to the ISC:

1. **Investigating and discussing such subjects**, in which some or all of the States or the Union and one or more of the States have a **common interest**, as may be brought up before it;
2. **Making recommendations** upon any such subject and in particular recommendations for the better coordination of policy and action with respect to that subject; and
3. **Deliberating upon such other matters of general interest** to the States as may be referred by the Chairman to the Council.

The Council **has not been assigned the function** envisaged in clause (a) of Article 263 of the Constitution namely, **inquiring into and advising upon disputes**, which may have arisen between States as recommended by the Sarkaria Commission. Very recently (2008) the Administrative Reforms Commission recommended that the **conflict resolution role** envisaged for the ISC under **Art. 263 (a)** of the Constitution should be effectively utilized to find solutions to disputes among States or between all or some of the States and the Union. It further added that the **composition of ISC (of which there can be more than one) may be flexible** to suit the exigencies of the matter referred to it under Article 263.

The Supreme Court even suggested an adjudicating role to the Council in certain types of disputes involving the Union and the States. Particularly on matters of **policy where a consensual settlement is desired**, the ISC could negotiate a more acceptable resolution of the dispute among the Constitutional entities.

The Council is empowered under the Presidential Order of 1990 to work out its own procedures with the approval of the Government. Together with the full

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range of functional empowerment under Article 263, the **Council should have functional independence with a professional Secretariat** constituted with experts on relevant fields of knowledge supported by Central and State officials on deputation for limited periods.

The Secretary of ISC should be **designated ex-officio Secretary of the Department of States** reporting directly to the Union Home Minister who is to be ex-officio Deputy Chairman of the Council. Given the Constitutional and quasi-judicial tasks, the **Council should have experts in its organizational set up** drawn from the disciplines of Law, Management and Political Science besides the All India Services. The **proposed legislation should give the ISC an organizational and management structure** different from the Government departments and flexible enough to accommodate management practices involving multidisciplinary skills conducive to federal governance under the Constitution.

ZONAL COUNCILS

These aim at **promoting cooperation** & coordination between States, UTs and the Centre. They discuss & make recommendations regarding common matters. They are **only deliberative** and advisory bodies. These are **statutory bodies** created by States Reorganization Act of 1956. The Act divided the country into **5 zones: Northern Zone, Central Zone, Eastern Zone, Western Zone and Southern Zone.** A **6th Zone North-Eastern** was created in 1971 for Assam, Manipur, Mizoram, Arunachal Pradesh, Nagaland, Meghalaya & Tripura; Sikkim added in 1994

Each Zonal Council consists of:

1. From Centre :: Home Minister (acts as Chairman)
2. From States :: CM of all States in zone + 2 other ministers
(Each CM acts as a **Vice-Chairman by rotation**, holding office for a period of **1 year** at a time)
3. Administrators of all UTs in the zone

NATIONAL INTEGRATION COUNCIL RECONSTITUTED

- The government has reconstituted the National Integration Council (NIC) which will be chaired by PM Manmohan Singh. The NIC has **147 members**, including **Union Ministers, Leaders of the Opposition** in the Lok Sabha and Rajya Sabha, **Chief Ministers** of all States and UTs with Legislatures. It also includes leaders of national and regional political parties, chairpersons of national commissions, eminent journalists, public figures, and representatives of business and women's organisations.
- **Set up** in the early **1960s** by PM **Jawaharlal Nehru**, the NIC held its first meeting in 1962. The council reviews matters relating to national integration and makes recommendations over such issues. The NIC aims at finding ways and means to combat the menace of **communalism, casteism and regionalism**. It has held 14 meetings so far, with the last one in October 2008.
- The reconstituted NIC will have **14 Union Ministers**, leaders of national & regional political parties, eminent journalists, women's representatives and persons from the business world, and other eminent public figures.

FEDERAL ISSUES-II

RIVER DISPUTES IN INDIA

(THERE ARE MANY MORE FEDERAL ISSUES COVERED IN THE ACTUAL NOTES)

Water contributes to welfare in several ways: health (e.g. clean drinking water), agriculture (e.g., irrigation), and industry (e.g., hydroelectric power). Since India is a federal democracy, **and because rivers cross state boundaries**, constructing efficient and equitable mechanisms for allocating river flows has long been an important **legal and constitutional issue**. Numerous inter-state river-water disputes have erupted since independence.

Inter-state water disputes have turned out to be one of the most intractable of the many problems which the nation faces. It is a volatile **mixture of politics, law, and the question of rights** effecting livelihood. Many a time it has led to **serious law and order** problems. As the combined effects of increased usage owing to population growth, **intensive agriculture and rapid industrialization** on the one hand and deleterious effects of environmental degradation especially deforestation on the other, lead to **greater scarcity** the chances of intensification of disputes at local, inter-state and national levels become **more real**.

In India the matter is further compounded **because of its seasonality**, most of the precipitation taking place in the few monsoon months. **If water is impounded large storage dams need to be constructed** and if it is not then **floods occur devastating large areas**. Under both circumstances **there are inter-State issues** of sharing of costs of major dam projects and **flood control measures** (including those arising out of land acquisition, construction, relief and rehabilitation and reconstruction) and allocation of water.

CONSTITUTIONAL PROVISIONS

The Constitution provides **a role for the Centre, States and Local Bodies** in the management of water. However it is apparent that **the primacy in the matter is accorded to the States. Entry 17 in List II - State List** of the Seventh Schedule states as follows: —Water, that is to say, water supplies, irrigation and canals, drainage and embankments, water storage, and water power subject to the provisions of entry 56 of List III. **The Centre** has been given a role in

- a. **Entry 56 of List I – Union List** of the Seventh Schedule which speaks of —Regulation and development of inter-State rivers and river valleys to the extent to which such regulation and development under the control of the Union is declared by Parliament by law to be expedient in the public interest, and
- b. Stemming from this entry and recognizing that **disputes may arise in the use of, distribution or control of waters** of an inter-State river or river valley, under **Article 262** which provides for a **Parliamentary law in the matter of adjudication** of such disputes. The Article also provides that if Parliament so enacts

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then **neither the Supreme Court nor any other Court** shall exercise jurisdiction in respect of any such dispute or complaint.

- c. Besides above, **Articles 131 and 136 of the Constitution** have been used by the States frequently for bringing the **matters related to inter-State rivers** before the **Hon'ble Supreme Court**. Further, **Article 143(1) of the Constitution** has been used by the Central Government for seeking opinion of the Hon'ble Supreme Court on the matters related to inter-State rivers.

MECHANISMS

Inter-State Water Disputes Act, 1956 was enacted **under Article 262** of the Constitution. According to the Act, the **State Government may request the Central Government** to refer a water dispute to a Tribunal for adjudication. **The Act provides for the constitution of a Tribunal** for adjudication of the water dispute by the Central Government if is satisfied that disputes cannot be settled by negotiations.

The Tribunal shall consist of a **chairman and two members** to be nominated by the Chief Justice of India from amongst the sitting Judges of the Supreme Court or of a High Court. There is provision for **appointment of assessors to assist the Tribunal** in the proceedings before it. The Act provides **that tribunal should investigate the matter** and shall submit a report and decision to **Central Government**. The Tribunal has to give its further report on explanation or guidance, if sought by the Central or State Governments and Decision of the Tribunal shall be deemed to be modified accordingly.

Decision of the Tribunal is binding on the parties to the disputes and shall be given effect to by them. The ISWD Act **prohibits the reference** of any dispute to a Tribunal which has already been referred to arbitration under the River Boards Act, 1956. The Act **precludes all the courts including the Supreme Court** from having jurisdiction in respect of any water dispute which may be referred to a Tribunal under the Act. The Central Government **shall dissolve the Tribunal after it has forwarded its report** and as soon as Central Government is satisfied that no further reference to the Tribunal in the matter would be necessary.

Under Entry 56 of List –I of the Constitution, the **River Boards Act, 1956** was **enacted** for the establishment of **River Boards** to promote integrated and optimal development of inter-state rivers and river valleys. As per this Act, the Central Government can constitute a **River Board** in consultation with the State Governments concerned, which would help in **coordinated and optimum utilisation of the river waters** and promote development of irrigation, drainage, water supply, flood control and hydroelectric power. **The role of the River Boards as stipulated in the said Act is only advisory in nature**. The River Boards Act 1956 also provides for arbitration of the dispute or differences between two or more governments interested with respect to any advice tendered by the Board.

River Boards envisaged under **River Boards Act, 1956** are of permanent nature. If a River Board exists for any particular basin, dispute or difference between the governments interested needs to be resolved within the **provisions of the Act**. In other words **need for constituting Tribunals under the ISWD Act will be**

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obviated to the extent number of River Boards exist in respect of particular River basins.

However, in spite of efforts made to establish River Boards in the past, no **River Boards could be established so far under River Boards Act, 1956** due to lack of interest and unreserved cooperation of party States. **ISWD Act provides for setting up of ad-hoc Water Disputes Tribunal** for adjudication of disputes relating to inter-State river when negotiations do not lead to fruitful results. Though the intention behind provision of Article 262 in the Constitution was to **appoint one permanent body** to deal with very many water disputes that may arise, it appears that in view of enactment of River Boards Act 1956, ad-hoc Water Disputes Tribunal were in envisaged in the Act.

ISSUES INVOLVED

The shares of the basin states in a river basin are normally decided **either by agreement** among the basin states or **by decisions of a tribunal** and are given effect to by themselves. In certain cases **regulatory bodies** with participation of representatives of the concerned basin states are also established to facilitate the implementation of terms of **agreement /decision of Tribunal**.

The Centre has exercised its jurisdiction in the matter of inter-State rivers by enacting the **River Boards Act 1956**. Hence if central management of any inter-State river basin is desired it could be done **either through a specific legislation** for that basin or by **setting up a Board** under the River Boards Act 1956.

In practice however the Centre has not exercised either route to constitute a specific River Basin Organisation, (It is interesting to note that the **Ganga Basin Authority** notified in February 2009 has been set up under the Environment Protection Act) and the reasons for this have generally been ascribed to the **reluctance of States** to politically come to an understanding in this regard.

River **boards** with only advisory powers have been created. Hence, the **state governments dominate the allocation of river waters**. Since **rivers cross state boundaries, disputes are inevitable**. The Inter-State Water Disputes Act of 1956 was legislated to deal with conflicts, and included provisions for the establishment of tribunals to adjudicate where direct negotiations have failed. However, **states have sometimes refused to accept** the decisions of tribunals. Therefore, arbitration is not binding. Significantly, the courts have also been ignored on occasion.

Finally, the center has sometimes intervened directly as well, but in the most intractable cases, such as the sharing of the Ravi-Beas waters among Haryana, Jammu and Kashmir, Rajasthan, and Punjab, **central intervention, too, has been unsuccessful**. In summary, an unambiguous **institutional mechanism** for settling inter-state water disputes **does not exist**. Nevertheless, water disputes are sometimes settled.

Every Tribunal constituted in the past **had followed different ways and methods** for resolving the issues before it. **In case of Godavari, Krishna and Narmada**; great deal of understanding and give & take among the basin States is visible

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and as a result, **Tribunal of these river basins were successfully able** to resolve the issues before them.

In case of Ravi-Beas and Cauvery; **due to lack of understanding and cooperation among basin States**, Tribunal has not been able to resolve the issues so far. In fact in both the cases, the **President of India had to make references under Article 143(1) of the Constitution to the Hon'ble Supreme Court** on the legal complications created by Legislative action of the basin States.

Functioning of a new Tribunal **gets hampered in the initial stages** which has its **adverse effect on the time limit set** in the ISRWD Act 1956 for a Tribunal for submission of its reports. Therefore **there is need for comprehensive relook at ISRWD Act 1956** and amending the same so that it provides for the creation of Standing Water Disputes Tribunal.

Another trend which is being noticed of late **is frequent use of Article 131 of the Constitution by the States to bring the issues related to inter-state rivers before the Hon'ble Supreme Court**. A number of Original Suits have been filed before Hon'ble Supreme Court and most of the Suits are **pending before the Court**. Central Government is invariably made a respondent in the Suits filed before the Hon'ble Supreme Court. Many of these Suits can be avoided before the Hon'ble Supreme Court if a mechanism in the form of **Standing Water Disputes Tribunal** exists since in such eventuality Central Government can always take a stand before the Hon'ble Supreme Court that in view of Standing Water Disputes Tribunal, the Court should not entertain such cases.

PUNCHI COMMISSION'S VIEW

The proposal for setting up a **Standing Tribunal** for all Inter State River Water Disputes is at conceptual stage at present. The Punchi Commission on Centre State Relations has inter alia made following recommendation **on water disputes**:

1. The Tribunal should be a **multidisciplinary body** presided over by a Judge.
2. It should follow a **more participatory** and conciliatory approach.
3. The statute should **prescribe a time limit** for clarificatory or supplementary orders. **Appeals to the Supreme Court** should be prescribed under the statute; and in the long run; and **Reference to a Tribunal** should be invariably linked with constitution of inter-State River Boards charged with an integrated watershed approach towards inter-State rivers.
4. The initiating party must indicate the **efforts it has made in resolution** of its grievances before a River Board.
5. The Government of India **must indicate the stand it took before the Board** and in case a Board has not been constituted the reasons for not having constituted one as well as the likely timeframe in case the process is underway.

These recommendations of Punchi Commission on Centre State Relations are under consideration of Inter State council.

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EXAMPLES

Ravi Beas case: The matter was referred to the Tribunal in 1986. A report was given in January 1987. **Political differences** led to further references being made to the Tribunal and the matter is still before it. Meanwhile **Punjab has through legislative enactment terminated all agreements.** The legality of this action is the subject matter of a Presidential reference to the Supreme Court made in 2005 under Article 143. The matter is still awaiting the Court's opinion.

There is another issue of **finality.** When after nearly 20 years a final decision was handed down by the **Cauvery Tribunal on February 5, 2007,** it was subjected to a **challenge in the Supreme Court** by the States of Karnataka and Kerala, on certain constitutional issues. The **State of Tamil Nadu invoked the powers of the Supreme Court under Article 136** and filed a **Special Leave Petition.** Thus the amendment to the Inter-State Water Disputes Act 1956 passed in 2000 which explicitly states that the decision of a Tribunal shall have the same force as an order or decree of the Supreme Court has been **found to be ineffective.**

In view of the above, there is a need for **further amendment in the ISRWD Act, 1956** which should provide for **creation of a Standing Water Disputes Tribunal** and for reference of water disputes among the basin States directly to such Tribunal or through the Central Government. Amendment in the Act for creation of a **Standing Water Disputes Tribunal does not in any way do away** with the need among the basin/party States of the mutual understanding and co-operation to resolve such issue even before the Standing Water Disputes Tribunal.

KAVERI RIVER WATER DISPUTE

The sharing of waters of the Kaveri has been the source of a serious conflict between the Indian states of **Karnataka and Tamil Nadu.** The genesis of this conflict, rests in two controversial agreements—one signed in 1892 and another in 1924—between the erstwhile Madras Presidency and Princely State of Mysore. The 802 kilometres Kaveri River has 32,000 km² basin area in Karnataka and 44,000 km² basin area in Tamil Nadu.

The **state of Karnataka contends** that it **does not receive its due share of water from the river as does Tamil Nadu.** Karnataka claims that these agreements were skewed heavily in favour of the Madras Presidency, and has demanded a renegotiated settlement based on "equitable sharing of the waters". **Tamil Nadu, on the other hand, pleads** that it has already developed almost **3,000,000 acres (12,000 km²) of land** and as a result has come to depend very heavily on the existing pattern of usage. Any change in this pattern, it says, **will adversely affect the livelihood of millions of farmers** in the state.

Decades of negotiations between the parties bore no fruit. The Government of India then constituted **a tribunal in 1990** to look into the matter. After hearing arguments of all the parties involved for the **next 16 years,** the tribunal delivered its **final verdict on 5 February 2007.** The Tribunal, comprising chairman **Justice N.P. Singh** and members N.S. Rao and Sudhir Narain, in its verdict, allocated:

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- 419 billion ft³ (12 km³) of water annually to **Tamil Nadu**
- 270 billion ft³ (7.6 km³) to **Karnataka**;
- 30 billion ft³ (0.8 km³) of Kaveri river water to **Kerala**
- 7 billion ft³ (0.2 km³) to Puducherry.

The dispute however, appears **not to have concluded**, as all four states deciding to **file review petitions** seeking clarifications and possible renegotiation of the order. **In February 2013**, based on the **directions of the Supreme Court**, the Indian Government has notified the **final award of the Cauvery Water Disputes Tribunal (CWDT)** on sharing the waters of the Cauvery system among the basin States of Karnataka, Tamil Nadu, and Kerala and Union territory of Puducherry.

KRISHNA WATER TRIBUNAL

The **three-member tribunal**, headed by **Justice Brijesh Kumar**, permitted Karnataka to raise the storage level in the **Almatti dam** to 524.256 metres from 519.6 metres, a measure seen by Andhra Pradesh as depriving its lower Krishna delta region of water supply. The tribunal, however, directed Karnataka to make regulated releases of 8 to 10 thousand million cubic feet (tmcft) from the dam to Andhra Pradesh in June and July.

The Krishna Water Disputes Tribunal-II allocated the **highest share of Krishna river waters to Andhra Pradesh** but distributed the surplus waters, which was hitherto flowing into the State. The shares of other basin States — **Karnataka and Maharashtra** — were also raised. The tribunal asked the Centre to set up a '**Krishna Water Decision-Implementation Board**' with representation from all the three States. In its order, announced in an open court, the tribunal allocated a total share of of **1,001 tmcft** to Andhra Pradesh, **911 tmcft** to Karnataka and **666 tmcft** to Maharashtra with certain restrictions imposed on each State in keeping with the dependable flows of the rivers on which the allocations have been made.

Since the decision of the tribunal has the **force and decree of the Supreme Court**, no appeal against the award can be filed in any court except before the tribunal itself. The **order of the tribunal** can be reviewed or revised after May 31, 2050. States which came up with projects that do not fall within the purview of the tribunal's order may have to modify them. **KWDT-II was constituted in 2004.**

BHABLI: CMs TO ABIDE BY SUPREME COURT INTERIM ORDER

Bhabli project refers to the **controversial reservoir project**, being **constructed by the Maharashtra** across the river **Godavari**, disputed by **Andhra Pradesh**. The **Supreme Court**, in its interim **order in 2007**, said Maharashtra could continue with the construction of the **barrage**, but not install the 13 crest-gates on the solid structure, which is important as their height determines how much water can be stored. Later, Andhra Pradesh filed a contempt petition against Maharashtra for not implementing the Supreme Court's interim order.

The Maharashtra government had installed all the 13 crest-gates as planned originally **in violation of the order**, claims the A.P government. It maintained

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that Bhabli was constructed within the foreshores of the **Sriram Sagar project** reservoir, and, therefore, it would curtail inflows to Andhra Pradesh.

The dispute arises from the fact that **S.B. Chavan** and **Jalagam Vengal Rao** reached an agreement in **October 1975** which was later made part of the Godavari Water Disputes Tribunal (GWDT) Award. As per the terms of the pact **Maharashtra could utilize 60 tmcft** (thousand million cubic feet) of Godavari water while Andhra Pradesh could go ahead with building the Sriram Sagar Project (SRSP) and utilize all the balance water.

Andhra Pradesh's contention is that Maharashtra has used up its quota in course of time by building 4 projects. Yet, in an action without precedent, Maharashtra began construction of the Bhabli project on the foreshores of SRSP and 13 other small projects upstream. 18 lakh acres under the SRSP ayacut in the **Telangana region** will become barren if Maharashtra is allowed to have its way.

MULLAPERIYAR DAM CONTROVERSY

Mullaperiyar Dam is constructed over the headwaters of the **Periyar River in Kerala**. The Periyar National Park is located around the Periyar reservoir formed by the backwaters of this dam. It is **operated by Tamil Nadu** according to a 999-year lease agreement made during erstwhile British colonial rule. Periyar River is a west-flowing river of Kerala. The River **flows its full course entirely through Kerala**, and derives its water almost exclusively from catchment area (Drainage basin) inside the State. The dam stops the west flowing river to form a reservoir, which is also **exclusively located in Kerala**.

In **February 2010**, Supreme Court has decided to constitute a 5-member **empowered committee** to study all issues of Mullaperiyar dam and seek a report from it within 6 months. In **March 2010**, in a fresh twist to Mullaperiyar dam row, **Tamil Nadu** told the Supreme Court that it was **not interested in adjudicating the dispute with Kerala** before the special –empowered committee appointed by the apex court for settling the **inter-State issue**. However, Supreme Court refused to accept Tamil Nadu's request to scrap the decision to form the empowered committee.

INTER-STATE RIVALRY ON HOGENAKKAL PROJECT

Karnataka is opposed to the **Hogenakkal drinking water** project implemented by Tamil Nadu, saying that any new project would affect its share of the **Cauvery waters**. Karnataka has also **claims the waterfall** based on a topographical map of the Madras Presidency. The **Rs. 1,334 crore** Hogenakkal integrated drinking water project, for which the foundation stone was laid in February 2008, envisages supply of potable water to over four million people in Dharampuri and Krishnagiri districts.

Hogenakkal Integrated Drinking Water Project is a **fluorosis mitigation drinking water project** being undertaken at Hogenakkal in Dharampuri district, Tamil Nadu. It aims to supply safe drinking water to drought prone & fluorosis affected Dharampuri and Krishnagiri districts of Tamil Nadu. It is scheduled to be executed with **funding from Japan Bank** for International Cooperation (JBIC) using Tamil Nadu's share of Cauvery river water.

SELF-HELP GROUPS (SHGs) - THIRD SECTOR ORGANISATIONS AT THE LOCAL LEVEL

SHGs are **informal associations** of people who choose to come together to find ways to improve their living conditions. They **help to build Social Capital among the poor**, especially women. The most important functions of a Self-Help Groups are (a) to encourage and **motivate** its members to save, (b) to persuade them to make a **collective plan** for generation of additional income, and (c) to act as a conduit for **formal banking services** to reach them.

Such groups work as a **collective guarantee system** for members who propose to borrow from organised sources. Consequently, Self-Help Groups have emerged as the most effective mechanism for **delivery of micro-finance services** to the poor. The range of financial services may include products such as deposits, loans, money transfer and insurance.

FINANCIAL INCLUSION— CURRENT STATUS IN THE COUNTRY

One of the reasons for **rural poverty** in our country is **low access to credit and financial services**. As per a survey report of the **NSSO** (59th round), **51% farmer households** in the country (out of a total of 90 million) do not have access to any form of credit from institutional or non-institutional sources. Overall, **73% of the households do not have credit links** with any financial institution. This apart, the overall credit linkage portfolio when taken as a whole for the country appears to be **highly skewed** with the North-Eastern, Eastern and Central regions lagging far behind other parts of the country.

Usha Thorat Committee

In 2006, the **RBI** set up a Committee under **Usha Thorat** to suggest methods to expand the reach and content of financial sector services in the **North-East**. The Report of the Committee emphasized on **large scale expansion** of financial intermediation in the entire region. This could be done by:

- a. opening **new branches** of Commercial Banks in these areas
- b. increasing the **no. of accounts** in the existing units
- c. adopting the **business correspondent/** facilitator model to increase the reach of Commercial Banks
- d. extensive use of **IT**
- e. improving currency management/ availability of foreign exchange facility
- f. providing **insurance and capital market** products through Banks
- g. introducing **Electronic Clearing Services** and Real Time Gross Settlement System
- h. strengthening the **Regional Rural Banks**
- i. converting well established SHGs into **cooperatives**
- j. relaxing insistence on **collaterals**

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Rangarajan Committee

In 2007, a Committee was constituted under the chairmanship of Dr. **C. Rangarajan** to prepare a comprehensive report on '**Financial Inclusion in the Country**'. The Committee went into a large number of issues connected with (a) **banking** in remote areas, (b) empowerment of **Self-Help Groups** and their linkages with financial institutions and (c) revitalization of the **RRBs**.

One of the main **findings of this Committee** was that the scenario of credit access showed **wide inter-region and inter-State variations**:

- 1. Level of Non-indebtedness across Regions:** Farm households not accessing credit from formal sources is very high in the North-Eastern, Eastern and Central Regions exceeding 80% of all farm households in these regions. In terms of **absolute numbers**, these regions taken together account for 65% of farm households not accessing credit from formal sources. The **southern region** exhibits **relatively better levels** of access to formal/ non-formal sources (75%) mainly on account of the spread of **banking habits** and a more robust infrastructure.
- 2. Level of Non-indebtedness across States:** The proportion of non-indebted farmer households was **most pronounced in Jammu and Kashmir** and Himachal Pradesh in the Northern Region, all North-Eastern States (60% to 96%) except Tripura, in Bihar and Jharkhand in the Eastern Region, and Chhattisgarh, UP and Uttarakhand in the Central Region.

The **Rangarajan Committee** came to a finding that currently there are **256 districts** in the country (out of a total 617) spread across 17 States and 1 Union Territory which suffer from **acute credit exclusion with a credit gap of over 95%**. The Committee identified **4 major reasons** for lack of financial inclusion:

- Inability to provide **collateral security**
- Poor credit **absorption capacity**
- Inadequate reach** of the institutions
- Weak **community network**

The existence of **sound community networks** in villages is increasingly, being recognized by development experts as one of the most important elements of credit linkage in the rural areas. **Participatory community organisations** like Self-Help/ **Joint Liability Groups** can be extremely effective in reaching credit to the poor and can thus, play a critical role in poverty alleviation.

EVOLUTION OF THE SHG MOVEMENT IN INDIA

1950s

The **first organised initiative** in this direction was taken in **Gujarat** in **1954** when the **Textile Labour Association** of Ahmedabad formed its women's wing to organise the women belonging to households of mill workers in order to **train them in primary skills** like sewing, knitting embroidery, typesetting & stenography etc.

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1970s

In 1972, it was given a more systematized structure when **Self Employed Women's Association (SEWA)** was formed as a **Trade Union** under the leadership of Ela Bhatt. She organised women workers such as hawkers, vendors, home based operators like weavers, papad makers, small producers like cattle rearers, salt workers, cooks and vendors with the **primary objective** of (a) increasing their **income and assets**; (b) enhancing their food and **nutritional standards**; and (c) increasing their organisational and **leadership strength**. The overall intention was to organise women for **full employment**.

1980s

In the 1980s, **Myrada**— a Karnataka based non-governmental organisation, promoted several locally formed groups to enable the members to **secure credit collectively** and use it along with their own savings for activities which could provide them economically gainful employment. **Small group formations** at the local level were initiated in Tamil Nadu and Kerala through the Tamil Nadu Women in Agriculture Programme (**TANWA**) 1986, Participatory Poverty Reduction Programme of Kerala, (**Kudumbashree**) 1995 and Tamil Nadu Women's Development Project (**TNWDP**) 1989. These initiatives gave a firm footing to SHG movement in these States. Today, around **44% of the total Bank-linked SHGs** of the country are in **4 southern States** of Andhra Pradesh, Tamil Nadu, Karnataka and Kerala.

The **positive experience** gained from the above programmes has led to the emergence of a very strong consensus that the **twin concepts** of (a) small group organisation and (b) **self-management** are potent tools for economic and social empowerment of the rural poor. Efforts have been made almost in all parts of the country to adopt this model as a **necessary component** of the poverty alleviation programmes.

1990s

The **SHG-Bank linkage programme** was started as a test project in 1989 when **NABARD**, the Apex Rural Development Bank in the country, sanctioned Rs. 10 lakhs to **MYRADA** as seed money assistance for forming credit management groups. **Ministry of Rural Development** also provided financial support to **PRADAN** to establish SHGs in some rural pockets of Rajasthan. On the basis of these experiences, a **full-fledged project** involving a partnership among **SHGs, Banks and NGOs** was launched by NABARD in 1992.

In **1995**, the **RBI streamlined the credit delivery procedure** by issuing a set of guidelines to Commercial Banks. It enabled SHGs to open Bank Accounts. The scheme was further strengthened by a standing commitment given by NABARD to provide **refinance and promotional support** to Banks for credit disbursement under the SHG – Bank linkage programme. NABARD's corporate mission was to make available **microfinance services** to 20 million poor households.

In the **initial years**, the progress in the programme was a slow; around 33,000 groups could be credit linked during the period 1992-99. But, thereafter, the

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programme grew rapidly and the number of SHGs financed increased to more than 7 lakhs in 2010. Cumulatively, **33 million poor households** in the country have been able to secure access to micro-finance from the formal banking system.

NABARD, in association with Deutsche Gesellschaft für Technische Zusammenarbeit (**GTZ**), conducted a study in **2005**, on the **comparative performance** of **SHG–Bank linkage programme** vis-à-vis other modes of priority sector lending. It revealed that the 40 million families and 205 million people having been covered under this programme and the **cumulative loan figure** standing at around 18000 crores appear to be impressive. But in the context of the **magnitude of poverty** prevailing in the country and the **overall quantum of the fund flow** available under various anti-poverty programmes of the Government, the size of the SHG movement could be described only as modest.

AGENCIES INVOLVED IN SHG DEVELOPMENT

Apart from **NABARD**, there are 4 other major organisations in the public sector which too **provide loans to financial intermediaries** for onward lending to SHGs. They are (a) Small Industries Development Bank of India (SIDBI), (b) Rashtriya Mahila Kosh (RMK), and (c) Housing and Urban Development Corporation (HUDCO). Then, there are public sector/ other commercial banks which are free to take up any lending as per their policy and RBI guidelines.

Rashtriya Mahila Kosh (RMK)

RMK was set up by in **1993** as an **Autonomous Body** registered under Societies Registration Act, 1860 under the Ministry of Women and Child Development. The objective was to facilitate **credit support to poor women** for their socio-economic upliftment. RMK was established to provide loans in a **quasi formal credit delivery** mechanism, which is **client-friendly**, has simple and minimal procedure, disburses quickly and repeatedly, has **flexible repayment** schedules, links thrifts and savings with credit and has relatively low transaction costs both for the borrower and the lender.

The **maximum amount of loan** that can be given to a beneficiary at a time is Rs. 25,000 for income generation, Rs. 50, 000 for house building and Rs. 10,000 for a family purpose. A corpus of Rs. **31 crore** was provided to the RMK at its inception. During the intervening period of 15 years, this corpus has been increased only marginally to Rs. 76 crore in 2008. It does not have branch offices anywhere in the country and operates only through its corporate office located at New Delhi.

Small Industries Development Bank of India (SIDBI)

SIDBI launched its micro finance programme on a pilot basis in **1994** using the **NGO-MFI model** of credit delivery wherein such institutions were used as **financial intermediaries** for delivering credit to the poor and unreached, mainly women. In 1999, SIDBI **reoriented and upscaled** its micro finance programme. A specialised department viz. 'SIDBI Foundation for Micro Credit' (**SFMC**) was set up with the mission to create a **national network** of strong, viable and sustainable Micro Finance Institutions (**MFIs**).

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SFMC is implementing the **National Micro Finance Support Programme** (NMFSP with the goal of bringing about substantial **poverty elimination** and **reduced vulnerability** amongst users of micro-finance services, particularly women. The NMFSP is being implemented in collaboration with the Department for International Development (**DFID**), UK and the International Fund for Agricultural Development (**IFAD**), Rome.

CASE STUDIES: SUCCESS STORIES IN STATES

Andhra Pradesh

In Andhra Pradesh, **women** have been placed in the fore-front of the development agenda through formation of women's SHGs. **Multi-level SHG federations** formed at the block and district levels have further benefited the growth of SHGs and **institutionalized this mobilization**. The State Government assists the groups by providing Revolving Fund/ **Matching Grant** under various programmes. **Society for Elimination of Rural Poverty** (SERP), a registered autonomous Body, is playing a key role in this process by providing facilitation support to groups and by sensitizing line departments of the government, Banks and insurance companies towards the needs of the poor.

Tamil Nadu

In Tamil Nadu, the **Department of Rural Development** has taken initiative to organise the rural poor into SHGs. The members of the group agree to **save regularly** and convert their savings into a common fund known as the **group corpus**. This fund is used by the group through a **common management strategy**. Generally, a SHG consists of **10-20 persons**. However, in difficult areas having scattered population or disabled persons, the number may even go down to 5. The group must belong to **BPL families**. However, if necessary, a maximum of 20% of the members in a group may be taken from families **marginally above the poverty line** with consent of the BPL members of the group.

The group has its **own code of conduct** to bind itself. The group corpus fund is used to **advance loans to the members**. The group tries to develop financial management norms covering the loan sanction procedure, repayment schedule and interest rates. The group operates a **group account** in their service area Bank branch, so as to deposit the balance amounts left with the groups after disbursing loans to its members.

Kerala

The State Poverty Eradication Mission - **Kudumbashree** was launched by the Government in 1998 with the active support of Government of India and NABARD. The objective was to **eradicate absolute poverty** in 10 years under the leadership of Local-Self Governments. The 20-40 women are organised into **Neighbourhood Groups** (NHGs). These groups are coordinated at the Ward level through Area Development Society (ADS), by federating 8-10 NHGs. The coordinating **Apex Body** at the Panchayat level is the Community Development Society (CDS).

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The aspirations and genuine demands voiced in the NHG meetings form the **-micro-plans**, and are scrutinized and prioritized to form a mini-plan at the level of ADS. A judicious prioritization process at the level of CDS leads to finalisation of a **-CDS Plan**. It is the **-anti-poverty sub-plan** of the Local-Self Government. **Thrift and Credit Societies** are set up at NHG level to encourage the poor to save and to avail easy credits. These facilities have gradually grown into informal **Doorstep Banks** for Kudumbashree members.

PRIVATE INITIATIVE IN SHG DEVELOPMENT

SEWA in Ahmedabad, MYRADA in Karnataka, Nav Bharat Jagriti Kendra and Ramakrishna Mission in Jharkhand, and ADITHI in Bihar are some of the names which took the **lead in promoting SHGs** (mostly of women) around income generation activities using local skills. From organizing villagers into groups which could work on viable activities, to making a project and securing funds, these VOs have worked with involvement and dedication. **PRADAN** (Professional Assistance for Development Action), DHAN Foundation, **ASSEFA** (Association of Sarva Seva Farms), **MALAR** (Mahalir Association for Literacy, Awareness and Rights), SKS, Janodaya, Cohesion Foundation and **Jan Chetna Sansthan** are some of the other major non-governmental institutions which are promoting and nurturing a large number of SHGs.

INTERNATIONAL EXPERIENCE

A major micro-finance experiment was initiated in **Bangladesh** by **Mohd. Yunus** in 1974-76. He started lending to groups of poor people in areas neighbouring Chittagong. He realised that the **only way out** of poverty lay in going beyond the existing norm of the market and providing the very poor with **non-guaranteed solidarity-based loans** which could enable them to develop gainful economic activities.

In 1976, after repeated resistance and refusals by Bangladeshi banks, Yunus succeeded in founding the **'Grameen Bank'**. By 1994, this **poor people's bank** was directly serving **2 million people**. The owners of the bank were women (94%) organised into solidarity-based groups of 5. Contrary to expectations, these groups were **prompt in paying back their loan installments**. Currently, the Grameen Bank is in a credit relationship with nearly **7 million poor people** spread across 73,000 villages in Bangladesh, 97% of whom are women.

Advancing **collateral-free loans** for income generation schemes remains the **core activity** of the bank. But, it also gives housing, student and a host of attractive savings, pension funds and insurance products to its members. Cumulatively, the **total disbursal of loan** has been to the tune of US \$ 6 billion with a repayment rate is 99%; the Grameen Bank routinely makes profit. The efforts of the Grameen Bank have generated a **huge multiplier effect** in the country with regard to **women's organisational abilities** and their overall empowerment. It has enabled them to build assets, increase family income, and **reduce their vulnerability** to economic stress, violence and exploitation.

In **Indonesia**, which has a long history of **informal village banking** through the rural units **Desas**, the official definition of microcredit covers all loans of less than Rp. 50 million (approx US \$ 5500), regardless of the conditions attached to these

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loans. This definition also covers a range of loans that are more commonly considered **small and medium enterprise** (SME) lending.

Bolivia has been one of the leaders of the micro-finance movement in South America. The **informal sector** in this country is a source of major employment for the impoverished population and for them; the microcredit institutions are of great value. The State has put in place an adequately empowered **financial regulatory authority** to develop and govern this sector.

Micro-finance in **Mexico** has adopted an altogether different model which **does not insist on collaterals** but operates on **high interest rates**. **Compartamos**, the most prominent MFI of the country, was born out of the same social concern that inspired Mr. Yunus in Bangladesh. It uses a **group lending** model similar to Grameen's. But it believes in the principle that by **pursuing profits**, it will be able to provide financial services to many poor people far more quickly than it would if it had continued to act as a charity. As a result, the micro-finance facility is provided to the borrowers at a high rate of interest (at least 79% per annum).

IMPACT ON RURAL LIFE

Economic impact

A random impact evaluation study was carried out by **NABARD**. The results of this survey released in 2000 indicated that:

- 58% of the households covered under SHGs reported an **increase in assets**; the average value of **assets per household** increased by 72%
- majority of the members developed **savings habit** against 23% earlier; there was a threefold increase in savings and a **doubling of borrowings** per household;
- the **share of consumption loan** in the borrowing went down from 50% to 25%; 70% of the loans taken went towards **income generation** ventures;
- employment** expanded by 18%;
- the **average net income** per household rose by 33%
- about 42% of the household studied were below their State specific **poverty line** in the pre-SHG enrolment stage; it came down to 22%

Social impact

- Rise in self-confidence:** Participation in group activity significantly contributed to improvement of **self-confidence** among the members. In general, group members and particularly women became more **vocal & assertive** on social and family issues.
- Promotion of group activity:** The structure of the SHG is meant to provide mutual support to the participants in saving money, preparing a **common plan** for additional income generation and **opening bank accounts** that would help them in developing credit relationship with a lending institution. It promotes the **concept of group accountability** ensuring that the loans are paid back. It provides a platform to the community where the members can **discuss and resolve important issues** of mutual concern.
- Skill development:** While some of the SHGs have been initiated by the local communities themselves, many of them have come through the **help of a mentor**

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Body (either government or an NGO) which provided initial information and guidance to them. Such support often consists of **training people** on how to manage Bank accounts, how to assess small business potential of the local markets and how to **upgrade their skills**. In the end, it creates a local team of **resource persons**.

- d. **Increase in outreach of the micro-finance:** Commercial Banks and other institutions which are otherwise not receptive to the demands of marginalized individuals, start considering such groups as their **potential customers**. Overall such **Joint-Liability Groups** expand the outreach of the micro-finance programme in an effective way, **reaching out to the excluded segments** e.g. landless, sharecroppers, small and marginal farmers, women, SCs/STs etc.
- e. **Women empowerment:** The majority of SHGs comprise of **women members**. Formation of SHGs has a **multiplier effect in improving women's status** in society as well as in the family. Their active involvement in micro-finance and related entrepreneurial activities not only leads to improvement in their **socio-economic condition** but also enhances their **self-esteem**. Women in a group environment become **more articulate in voicing their concerns** and a change occurs in their self-perception. They start to see themselves not only as beneficiaries but also as **clients/ informed citizens** seeking better services. On the home front, their new found awareness and the confidence generated out of their entrepreneurial skills make them more confident vis-à-vis their men-folk.
- f. **Reduced exploitation by money-lenders:** The SHG programme has contributed to a reduced dependency on informal money lenders & other non-institutional sources.
- g. **Social upliftment:** It has enabled the participating households to **spend more on education** than non-client households. Families participating in the programme have reported better school attendance and lower drop-out rates. The financial inclusion attained through SHGs has led to **reduced child mortality**, improved **maternal health** and the ability of the poor to combat disease through better nutrition, housing and health – especially among women and children.

WEAKNESSES/ ISSUES OF SHG MOVEMENT

Though, during a short span of 15 years the SHG movement has recorded remarkable progress (> **30 lakhs SHGs** in operation presently with a cumulative loan of > **10 lakh crore** rupees), much still remains to be done. Even if we consider only the **BPL population** of the country (around 25% - 26 crores), the above achievement seems to be minuscule.

The movement shows **steep territorial variations**. Many areas of the country lack adequate **banking structure**. **Urban and semi-urban areas**, to a large extent, **stand excluded** from this mode of credit delivery. Further growth of this movement faces threat from **inadequacy of skills** in the rural areas. And finally the **pace of the movement** needs to be accelerated. SHG movement suffers from following **weaknesses**:

- Contrary to the vision for SHG development, members of a group do not come necessarily from the **poorest families**

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- The SHG model has led to definite social empowerment of the poor but whether the economic gains are adequate to bring a **qualitative change** in their life is a matter of debate
- Many of the activities undertaken by the SHGs are still based on **primitive skills** related mostly to primary sector enterprises. With **poor value addition** per worker and prevalence of subsistence level wages, such activities often do not lead to any substantial increase in the income of group members.
- There is lack of **qualified resource personnel** in the rural areas who could help in skill upgradation / acquisition of new skills by group members.

SUGGESTIONS/ PRIORITY AREAS TO BE FOCUSED

Looking at the **strength and weaknesses** of this movement, following **7 issues** of this sector deserve priority attention:

1. Maintaining the Participatory Character of SHGs

The strength of a SHGs lies primarily in its **solidarity-based participatory character**, and in its ability to survive without any significant external support or involvement. In the early phases of its existence, the intent behind the **cooperative movement** too focused on **stakeholders' participation**. The government and banking institutions were thought of as **some sort of catalyst** which would provide support to the sector. But gradually cooperative sector became a springboard for **political aspirants**. Government interventions have already started showing **negative results**. The patronage and subsidies provided to the SHGs by government and the Panchayats often lead to their politicization.

There is need to learn from the experience of the cooperative sector. The **mutually participatory, solidarity-based character** of SHG movement needs to be retained and protected. SHG movement should be recognized as a people's movement and the role of government should be only to facilitate and create a **supportive environment**, rather than 'manage' the movement directly.

2. Expanding SHG Movement to Credit Deficient Areas of the Country

Overall **73% of the farmer households** in rural areas have no access to any formal source of credit. The States which are **particularly deficient** in this respect are Bihar, Uttar Pradesh, Madhya Pradesh, Orissa, Rajasthan and those in the North-East. **NABARD** has identified 13 States having large rural population but are performing unsatisfactorily in utilization of **Micro Finance Development and Equity Fund**.

Availability of financial services is one of the critical determinants of employment, economic well being and social empowerment in rural areas especially for the marginalized poor. Their **access to credit delivery** and related services broadly depends on 2 factors– (a) the **reach and expansion** of the financial infrastructure; and (b) the **presence of social organisations** and cultural attitudes which are in readiness to receive the benefits offered by the infrastructure.

Building **financial infrastructure** is an important step towards expansion of economic opportunities in a backward area. But, it needs to be firmly supported by

cooperative action and social mobilization on the part of local stakeholders. Expansion of social cooperation should be regarded as a **central feature** of the development process and hence, people's organisations like Self-Help/ other Joint-Liability Groups need to be encouraged.

3. Extension of Self-Help Groups to Urban / Peri-Urban Areas

Migration in India can be divided into **2 broad categories**: (i) movement from villages to the neighbouring **middle grade towns** and (ii) movement to **metropolitan cities**. The first category, often called **transient migration** is in the nature of temporary movement where the worker stays in the new location intermittently for shorter periods and maintains close links with his home village. But when he moves to a metropolitan city, his stay in the new location is for longer durations. This class of workers **mostly stays in tenements and slums**. They do not have access to organised financial services.

Presently, **NABARD's** mandate is to provide micro-finance facilities **only to rural and semi-urban areas**. Branches of the **mainstream Banks** too are not keen to service this sector. The net result is that this segment of the urban population e.g. pavement sellers, street hawkers, construction workers etc. remains **financially excluded**. In Bangladesh, the **Grameen Bank** does not make any distinction between urban and rural borrowers provided the **groups satisfy the basic conditions**.

Rangarajan Committee on Financial Inclusion also considered this issue. In the current scenario of ever **increasing urbanization** (28% in 2001, likely to be 50% by 2040), for a holistic development of urban areas, all round efforts should be made to increase **income generation abilities of the urban poor**. There is need to organize this class of people into **Neighbourhood Groups** (NHGs) on the same pattern as has been adopted for the rural poor. Since **NABARD** has the necessary expertise in this sector, it would be best if it plays a promotional role for Self-Help Groups and micro-finance activities in urban / **peri-urban areas too**.

4. Mode of SHG Development and Financial Intermediation

Establishing **stable linkage** between a SHG and a local financial institution is one of the key elements of the SHG movement. Currently, **4 distinct models** of financial intermediation are in operation in various parts of the country:

1. SHG-Bank linkage promoted by a **mentor institute**
2. SHG-Bank **direct** linkage
3. **SHG-Mentor** Institution linkage
4. **SHG-Federation** model

Linking SHGs to Banks by a mentor institute for credit requirement is the **most effective** model which allows an SHG to obtain loan funds **without any collateral**, from a local rural/ commercial Bank often in **multiples of its own savings**. Such a fund is transferred to its members by the SHG for a commonly accepted purpose on explicitly **settled terms**. This model is a **savings-led mechanism**, which insists on a minimum savings of 6 to 12 months before the group becomes eligible for external credit. In **India**, this model has been one of the most successful models.

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:: The **total outflow** in this model has been **low** because it is inherently linked with the magnitude of the **SHG's own savings**. In some cases, a cluster of SHGs have gathered together to **form a federation**. This scales up their activities and also enables them to have **access to increased resources** from funding institutions.

A somewhat modified form also exists in which **Banks provide financial support directly** to SHGs which have grown without help of any promoter institution. Such SHGs are usually formed on the basis of some common activities. The cases of such financial intermediation are of course **not very common**. In the third model, the **SHPI** (Self-Help Promoter Institution) takes the role of a **financial intermediary** between a Banks and the SHG. The SHPI accepts the contractual responsibility for **repayment** of the loan to the Bank. It is an example of indirect linkage between the SHG and the Bank.

In another model, a **federation provides financial intermediation** to the SHG. An examination of some of the SHG federation models reveals a variety of **innovations**. These include linkage to the parent NGO-MFI linkage with external MFIs, community ownership of a Non-Banking Finance Company (NBFC) and SHGs being reconstituted into mutually aided credit and thrift cooperatives. However, many of these innovations are **stand alone initiatives**, not capable of easy replication.

Since the borrowing SHGs consist mainly of low income members who cannot afford to miss even a day's wages, a **hassle-free transaction** with a Bank which is ready to come to their doorsteps with appropriate credit products is of great value to them. The **SHG-Bank Linkage Model** with a mentor SHPI is the most appropriate one for delivery of financial services to the SHGs.

5. Expansion of Regional Rural Banks (RRBs)

Presently, out of a total of 622 districts in the country, almost 550 have a network of RRBs. These banks are primarily for providing **institutional credit** to the marginalized sector of the rural economy (small, marginal farmers, landless labour and rural artisans). Extension of the RRB network to the remaining districts would considerably speed up the process of **inclusive banking** and help in extending microfinance to local SHGs.

6. Issues of Sustainability, Capacity Building and use of Technology

The **institutional sustainability** and the quality of operations of the SHGs are matters of considerable concern. It is generally held that only a minority of the SHGs are able to raise themselves from a level of micro-finance to that of **micro-entrepreneurship**. Neither do such Bank linkages lead to sanction of larger individual loans under the Bank's normal lending programmes.

The ultimate objective of a tie-up is to impart financial strength to the SHGs so that they can enter into a **stable relationship with the local financial institutions** - without any external support. Even after many years of existence, by and large, SHGs are heavily **dependent on their promoter NGOs** or government agencies. The withdrawal of NGOs/ government agencies even from areas where SHGs have been

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federated, has often led to their collapse. The **leadership and management** of most SHG federations continue to be in the hands of NGOs.

Capacity building of small groups/ members is an important component of organisational effectiveness. Capacity building of government functionaries and Bank personnel is a necessary element of an **equitable triangular relationship** involving the SHGs, government functionaries and the local Banks. For success of such cooperative/ social capital ventures, there is need to provide **extensive training** to all the three pillars of the self-help movement.

Utilization of Technology: Currently, many public sector banks and micro-finance institutions are unwilling to provide financial services to the poor as the **cost of servicing remains high**. Use of appropriate technology can reduce it. High penetration of **telecom connectivity** in India, together with the latest mobile technology could be used to enhance financial inclusion in the country.

7. Financial Assistance to SHPIs and other Support Institutions

45% of the total number of **women's SHGs** of the country is located in **Andhra Pradesh**. This enviable position of the State is primarily due to the initiative shown by **promoter NGOs** often known as Self-Help Promoting Institutions (**SHPIs**) / mentor organisations. If the SHG movement is to spread across the entire country, there is need to provide **major incentives to SHPIs/ promoter NGOs**. Currently, the financial support to SHPIs comes from the Micro Finance Development and Equity Fund (**MFDEF**) of NABARD. To attract more and more SHPIs to the rural areas, this **quantum of support** needs to be revised.

ROLE OF MICRO FINANCE INSTITUTIONS (MFIS)

Two most important activities of the SHGs are (a) organizing thrift and **savings** and (b) leveraging it to obtain funds without formal **collaterals**. Since large commercial Banks, due to their complex operational structure and other management constraints, are usually not able to meet the needs of this sector, a large number of **private micro-finance institutions (MFIs)** have been set up in recent years in various parts of the country to fill this void.

Micro-credit is defined as **provision of thrift, credit, and other financial services** (such as deposits, loans, payment services, money transfer, insurance and related products) of **very small amounts** to the poor in rural, semi-urban and urban areas for enabling them to raise their income levels and improve living standards. **MFIs** are those which provide such micro-credit facilities. Leaving aside the commercial Banks, the needs of this sector are currently being handled by the following **4 major players:**

- a. Rural Banks
- b. Cooperatives
- c. Institutions which have been registered as Societies, Public Trusts
- d. Individual money-lenders

Micro-credit is an instrument of both **social as well as economic policy**. It opens up **integral development processes** such as use of financial and technical

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resources, basic services and **training opportunities** to the unprivileged. Access to savings, credit, money transfer, payment, and insurance can help poor people take **control of their financial life**. It also empowers them to make **critical choices** about investing in business, sending children to school, improving health care of the family, covering the cost of key social obligations and **unforeseen situations**. But the most important of all, an access to finance **generates self esteem** among them.

In the **Indian context**, the concept of micro-credit has an ancient origin, prevalent in the form of credit to the poor by the traders and money-lenders at **exorbitant interest rates**. This resulted in hardship to the borrowers often leading to illegal practices like **bonded labour**. However, in modern times, microcredit implies lending to the poor at reasonable but sustainable interest rates.

Raghuram Rajan Committee set up in 2007 to outline a comprehensive agenda for the evolution of the financial sector in the country has deeply analysed the issue -**Broadening of Access to Finance**. In this context, one of its suggestions is to **alter the emphasis** somewhat from the large Bank led, public sector dominated, mandate ridden and branch-expansion-focused strategy to **Micro Banks**. The poor need efficiency, innovation and value for money which can come from motivated financiers who have a **low cost structure** and who can see the poor as profitable. They also have the capacity of making **decisions quickly** & with minimum paper work. The **Committee recommended:**

- a. allowing **more entry to private** well-governed deposit-taking **small finance banks** offsetting their higher risk from being geographically focused by requiring higher capital adequacy norms, a strict prohibition on related party transactions, and lower allowable concentration norms
- b. making significant efforts to create the **supervisory capacity** to deliver the greater monitoring these banks will need initially
- c. putting in place a **tough prompt corrective action regime** that ensures that these banks do not become public charges

Micro-Finance Institutions in the Formal Sector

Currently, a major share of the micro-financial services such as **handling thrift and providing credit** to the economically active low-income segments of society, especially women, poor households and their micro enterprises is being collectively handled by **public sector institutions** like **NABARD**, Small Industries Development Bank of India (**SIDBI**), Rashtriya Mahila Kosh (**RMK**), rural branches of Commercial Banks and Regional Rural Banks (**RRBs**).

Private/ NGO Initiative in Micro-finance

Apart from the formal sector organisations, private/ NGO initiative too has played an important role in expanding micro-finance in the country. This expansion has happened in 2 ways. Some of the **NGOs** which actively promoted SHGs in the early years of the SHG movement themselves **diversified into micro-credit lending** such as **SEWA** in Gujarat, Nav Bharat Jagirity Kendra (**NBJK**) in Jharkhand and Shramik Bharati in Uttar Pradesh. The second set of institutions consists of those which came on the scene later by **registering as pure MFIs** such as Bandhan, BASIX and SKS. Their **form**

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varies; some of these MFIs have been registered as Societies, some as Trusts, some under Section 25 of the Companies Act and some as NBFCs. Some Cooperative and Mutually aided societies too, are engaged in this business.

:: The sector broadly identifies the following **9 issues** which confront its functioning: (i) operational/ **financial sustainability**, (ii) restrictions on handling thrift/savings (iii) lack of well developed **MIS**, human resource capacity and its retention, (iv) **marketing** of borrowers' products, (v) relationship with other NGOs and formal sector institutions, (vi) tackling **default**, (vii) **relationship with commercial Banks**, (viii) capital inflow and (ix) interaction with the government. It is widely recognized that installing a **uniform regulatory mechanism** will go a long way in facilitating further growth and development of private initiative in this sector.

MFIs and Money-Lenders' Act

An important issue which has become the subject of intense debate, concerns the **rate of interest** and **recovery practices of MFIs**. Currently, there are 22 States in the country which have **Money-Lenders' Act** in place. Tamil Nadu and Karnataka have gone a step further & also enacted a new legislation called **Prohibition of Charging Exorbitant Interest Act**. In several cases, they have applied provisions of these two Acts on activities of the MFIs and forced them to **stop their business**.

Kerala High Court ruled that the provisions of the **Kerala Money-lenders Act** would be applicable to the **non-banking financial institutions**. The Judgment also laid down that the government notification fixing the rate of interest at the **maximum limit** of 12% would apply to all types of loans for which the interest rate levied by the commercial Banks was around 10%. In **Andhra Pradesh**, an enquiry commission set up to probe the excesses of MFIs also made a series of recommendations with regard to the rate of interest, duration of the loan, recovery procedure and monitoring of their activities by **District Magistrate** and **Superintendent of Police**.

In 2006, the RBI set up a working group under **S.C. Gupta** to review **State money-lending legislations**. It recommended that **lending transactions** by NBFCs, registered Charitable Societies and Public Trusts should be **exempted** from the provisions of the State money lending legislations. There is need to further look into the issues of **MFI – State Money-lending legislations interface** and take all categories of MFIs; Societies, Public Trusts, Cooperative Societies, Section 25 Companies and NBFCs out of the purview of these laws. The issue of **interest rate charged** by the MFIs should be left to the **Regulatory Authority** proposed under the Micro-Financial Sector (Development and Regulation) Bill 2007.

Micro-Financial Sector (Development and Regulation) Bill, 2007

At present, except for those registered as NBFCs, the **lending activities of MFIs** are not being covered by any regulation. In order to **regulate this sector**, the Union Government introduced 'the Micro Financial Sector (Development and Regulation) Bill, 2007'. **The salient features of the Bill are as follows:**

- a. It identifies **NABARD** as the agency responsible for development & regulation of this sector.

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- b. It seeks to constitute a **Micro Finance Development Council** to **advise NABARD** on formulation of policies, schemes & other measures.
- c. It **defines various entities** engaged in the activity of micro finance that will be governed by the regulatory framework proposed to be set up.
- d. It **defines various categories** of clients such as SHGs/ Joint Liability Groups who will benefit from micro financial services.
- e. It seeks to extend micro financial services to **eligible clients** by way of financial assistance subject to ceilings as prescribed by NABARD.
- f. It provides for **acceptance of thrift**, i.e., savings of eligible clients by micro finance organisations, subject to such terms and conditions as may be prescribed.
- g. It provides for **creation of a reserve fund** by micro-finance organisations.
- h. It provides for constitution of **Micro Finance Development and Equity Fund** to be utilised for the development of the micro finance sector
- i. It provides for appointment of **Micro Finance Ombudsman** for settlement of disputes between eligible clients and micro-finance organisations.
- j. It provides for **offences and penalties** for non-compliance with the regulatory requirements of the Bill.

The proposed Bill has generated fierce debate among stakeholders and civil society organisations. **Resistance to the Bill** is based on the following arguments:

- a. **Constitutional propriety** of the Bill is questionable as the entities created by a State Acts such as Societies, Trusts and Cooperatives cannot be overridden by a Central legislation.
- b. Societies & Trusts etc. are **part of civil society**, whereas companies, cooperatives, partnership firms, nidhis etc. are **part of market** and therefore, it may not be appropriate to put these two sets of institutions in the **same basket** for the purpose of providing micro-financial services.
- c. Nominating **NABARD** as the primary regulator appears to go against the basic **principles of natural justice**, equity and autonomy as NABARD is itself a major player in this sector. However, NABARD provides only **refinance facility** to primary lenders and does not lend directly. It is primarily a facilitator and not a service provider. There appears to be **no scope of conflict** between the supervisory and regulatory functions of NABARD.
- d. There is some **ambiguity in definition** of Micro Finance Services, service providers, service receivers etc. in the proposed Bill. This needs to be removed.
- e. Bill defeats the intended purpose of providing affordable credit by not addressing the **issues of interest rates and fees** to be charged by the MFIs.
- f. The Bill does not cover Non-Banking Financial Companies (**NBFCs**) and Section 25 Companies which too operate in this sector. They are handling a **major share** of the micro-finance market.

Rangarajan Committee on 'Financial Inclusion' too examined the proposed Bill and made the following **suggestions**:

- a. **Companies formed under Section 25** of the Companies Act, 1956 need to be brought under the purview of this Bill.
- b. **Cooperatives** should be **taken out** of the purview of the proposed Bill in order to avoid duality of control between the State Acts and the Union Legislation.

Further, the following is also suggested for the 2007 Bill:

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- a. The **scope of micro-finance services** should be substantially widened to cover credit/ savings, insurance, pension services, money transfer, issue/ discount of warehouse receipts and future/ option contracts for agricultural commodities and forest produce.
- b. **NBFCs** are already regulated by the RBI. However, **Nidhis** registered under the Companies Act, and Producer Companies should also be brought under the new legislation.
- c. As far as the question of **allowing MFIs to handle thrift/ saving** and money transfer is concerned, there is a need to adopt a path of caution. Since it will involve hard earned **savings of the poorest** of the society, MFIs should be allowed to accept savings **only as business correspondents** of Scheduled Banks and not in their individual capacity as a micro-finance lender.
- d. **Rural credit** is often viewed as a potential Non Performing Asset. There is need to **educate government employees** and Bank personnel in this regard. **Technology** may be leveraged to reduce the cost of reaching out to the poorest of the poor.

ISSUES RELATED TO POVERTY & HUNGER

ISSUE-IX: INCLUSION

Inclusion is when all **people have the freedom to do** what anyone else can do, access to anyplace that anyone else can go, where full participation is available to everyone and all people embrace differences, and feel accepted, valued and respected for who they are. When considering the concept of inclusion one needs to be aware of the source of exclusion.

Inclusion is recognizing our **universal "oneness"** and **interdependence**. Inclusion is recognizing that we are "one" even though we are not the "same". We were all born "in". The act of inclusion means fighting against exclusion and all of the social diseases exclusion gives birth to - i.e. racism, poverty, hunger, etc.

The **difference between inclusion and exclusion** lies not with the individual, but within the society where the person lives. With this knowledge, the causes and strategies used to achieve inclusion the onus must fall upon societies. The causes and challenges of **exclusion result from social barriers** that exist within society as such; society is where the problems must be addressed.

WHY BE CONCERNED WITH INCLUSION?

- First, there are serious negative effects for people who experience exclusion. Exclusion **creates division within a community** and separation of people causes vulnerability among the excluded groups, whether it is because of disability, race or class. This vulnerability puts people at risk of negative experiences in their lives.
- Lack of inclusion also leads to and exacerbates **social disparity** which, furthers the devaluation of these groups and reduces their quality of life. A lack of inclusion within a community creates an **atmosphere of inequality**, which prevents people from having equal access to all things that should be available to them in their society.
- This prevents those who are excluded from getting what they need to live effectively. The areas often affected include access to employment and as a result, **reduced financial status** which creates the risk of people not being capable of acquiring their basic needs.
- Those who are excluded are at increased risk of participation in many types of **unhealthy behaviors** and **reduced overall health**. Beyond the implications of exclusion on the individual and groups in society, there are also effects, which touch society as a whole in a negative way.
- A reduced level of inclusion leads to the **marginalization and segregation of groups**, which emphasize differences, and creates separation within a community. A community divided in this way, is a weaker society in its humanity.
- Separation also leads to **power differentials**, which create divisions, segregation and **inequality** within a community. These concerns develop into power imbalances and oppression of groups in communities.

WHAT ARE THE CONTRIBUTING FACTORS TO EXCLUSION?

- There are a number of issues which contribute to exclusion. The biggest contributing factor is **attitudinal barriers** held about a group of people because of difference such as disability, race, or gender.
- This type of barrier has been identified as leading to lack of acceptance perpetuation of negative stereotypes and adherence to **certain norms, habits and societal rules**. These rules are designed by and for the dominant group in society and the belief that if people do not fit they should not be included. Finally, attitudinal barriers are the root cause of a number of other factors which contribute to exclusion such as access barriers, power imbalance, superficial service inclusion and policy barriers.
- One of the barriers that are caused by the presence of attitudinal barriers is **lack of accommodation of differences**.
- This includes physical barriers that prevent access. **Lack of accommodation** and accessibility contribute directly to the exclusion of people. Not only are these physical barriers an issue as they exist, but they also affect efforts to remove them and stifle willingness to prevent future barriers from being created.
- Voluntary measures are limitedly successful. Project and policy directives need to be put in place to assist with the elimination of barriers, so an environment of inclusion can occur.
- **Power imbalances** also result from attitudinal barriers and contribute to exclusion. People within the dominant group make decisions, as they possess the power to do so, for those outside the dominant group there is often a lack of support needed and feelings of inequality develop.
- When power is held by one dominant group those outside are more likely to be excluded and their needs are left unheard and unmet. Attitudinal barriers about the excluded contribute to superficially inclusive services and systems.
- These types of systems may have the best intentions but a **lack of belief in and respect for people** leads to the excluded being silent recipients of services. This superficial type effort often leads to generic approaches which are ineffective for everyone.
- This also applies to segregated programs which do not provide an opportunity to promote inclusion and perpetuates the separation of people and the belief that they are different and should not be part of the mainstream of society.
- Service language of benevolence and gifting sends very strong messages to the people served and to the community. This perspective can lead to perpetuation of attitudinal barriers, **negative self-images**, and negatively impacts on the service and community environment.
- The final area where attitudinal barriers affect the **exclusion of people is around policy barriers**. Commonly held negative attitudes influence the political agendas that support negative policy development for excluded groups. The outcome of this type of policy development is patchwork ineffective programs that do not address the needs of the people they were created to support.
- It is these barriers which prevent adequate funds and resources from being directed to the efforts of inclusion in service and accessibility supports. Negative attitudes and beliefs have a major effect on the production of **legislative disincentives** in their programs, which put up another barrier for the excluded to overcome.

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INCLUSION IN –INDIAN CONTEXTII

In Indian context it implies, an **equitable allocation of resources** with benefits accruing to every section of society and a growth process which yields **broad-based benefits** and ensures **equality of opportunity** for all. It is concerned with the **Pro-poor growth**, growth with equity. It is aimed at **poverty reduction, human development, health** and provide **opportunity to work** and be creative. In order to achieve inclusion, the allocation of resources must be focused on the indented short and long terms benefits and economic linkages at large and not just equitable mathematically on some regional and population criteria.

THE INCLUSION INVOLVES FOUR ATTRIBUTES

- **The Opportunity** attribute focuses on generating more and more opportunities to the people and focuses on increasing their income.
- **The Capability** attribute concentrates on providing the means for people to create or enhance their capabilities in order to exploit available opportunities.
- **The Access** attributes focuses on providing the means to bring opportunities and capabilities together.
- **The Security** attribute provides the means for people to protect themselves against a temporary or permanent loss of livelihood.

All together it is a process in which economic growth measured by a sustained expansion in GDP contributes to an enlargement of the scale and scope of all four dimensions.

ELEMENTS OF INCLUSION-ORIENTED GROWTH

The key components of the inclusion oriented growth strategy included a sharp **increase in investment in rural areas**, rural infrastructure and agriculture spurt in credit for farmers, increase in rural employment through a unique social safety net and a sharp increase in public spending on education and health care. The 5 interrelated elements of inclusion oriented growth are:

1. **Poverty Reduction** and increase in quantity and quality of employment.
2. **Agriculture Development**
3. **Social Sector Development**
4. **Reduction in regional disparities**
5. **Protecting the environment.**

PROBLEMS BEFORE INCLUSION ORIENTED GROWTH STRATEGIES IN INDIA

For a developing country like India, the need of inclusion-oriented growth is vital to achieve the overall progress of the country. Though it is positive for macro-economic stability, 2008-09 resulted a relative growth slowdown, mostly from the spillover effects of the weakening of the global economic momentum and volatile financial markets. The following problems are the **major concerns for developing countries** like India to achieve the inclusive growth. They are:

- Poverty
- Employment
- Agriculture

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- Problems in Social Development
- Regional Disparities
- Poverty
- Percent of population living under the poverty line, which is 356.35 rupees or around \$7 a month in rural areas.

The World Bank estimates that **456 million Indians** (42% of the total Indian population) now live **under the global poverty line** of \$1.25 per day (PPP). This means that a third of the global poor now reside in India. However, this also represents a significant **decline in poverty** from 60 percent in 1981 to 42 percent in 2005, although the rupee has decreased in value since then, while the official standard of 538/356 rupees per month has remained the same. Income **inequality in India (Gini coefficient: 32.5 in year 1999- 2000)** is increasing. On the other hand, the Planning Commission of India uses its own criteria and has estimated that **27.5% of the population** was living below the poverty line in 2004–2005, down from 51.3% in 1977–1978, and 36% in 1993-1994.

The source for this was the **61st round of the National Sample Survey (NSS)** and the criterion used was monthly per capita consumption expenditure below Rs. **356.35** for rural areas and **Rs. 538.60 for urban** areas. 75% of the poor are in rural areas, most of them are daily wagers, self-employed householders & landless labourers.

A proportionally large share of poor is lower castes. Many see the **caste system** as a system of exploitation of poor low-ranking groups by more prosperous high-ranking groups. In many parts of India, land is largely held by high-ranking property owners of the dominant castes that economically **exploit low-ranking landless labourers** and poor artisans, all the while degrading them with ritual emphases on their so-called god-given inferior status.

EMPLOYMENT

- Employment considered as one of the **big problems** for inclusion-oriented growth in India. Raising population at a great speed after independence showed its impact on employment. The **unemployment became the big worry** to the development of the country.
- Since poverty is much higher than unemployment, employment is the **only source to eradicate poverty**. The quality and quantity of employment in India is very low due to illiteracy and due to over dependency on agricultural employment. The quality of employment is also a problem.
- **Unorganized employed** people in India are **around 85%**. Workers in this sector do not have social security. The generation of productive employment for labour force in the economy, as employment is a key to inclusion-oriented growth is the toughest task for the country.
- The country is also facing in employment generation in all sectors, regions and for all socio economic groups particularly for poorer sections of population, backward regions, lagging sectors and SC/ST/OBC/women etc.

AGRICULTURE

- Traditionally, India is considered as the agricultural based country. As the majority of Indians are engaged in agriculture for employment, the recent developments in the other sectors decreased this major sector's growth. Some of the **problems in Indian agriculture are:**
 - ✓ Long term factors like steeper decline in per capita land availability, shrinking of farm size.
 - ✓ Slow reduction in share of employment.
 - ✓ Low labour productivity in agriculture and the gap between agriculture and non-agriculture sector is widening.
 - ✓ Decline in yield growth due to land and water problems, vulnerability to world commodity prices, farmer's suicides.
 - ✓ Disparities in growth across regions and crops, i.e., growth rate declined more in rain fed areas.
- Thus these **problems became the hurdles** in the key area for the economic development of the nation, i.e., agriculture.

PROBLEMS IN SOCIAL DEVELOPMENT

Social development is also one of the key concerns in inclusion oriented growth. The social development became the hot criteria in the recent past in India. Social development is also **facing some problems** making the path critical to inclusion-oriented growth in the country. Some of the problems in social sector are:

- ✓ Significant regional, social and gender disparities.
- ✓ Low level and slow growth in public expenditures particularly on health.
- ✓ Poor quality delivery systems.
- ✓ Achievement of 127th rank among 170 countries on Human Development index.
- ✓ Social indicators are much lower for scheduled castes and scheduled tribes.
- ✓ Malnutrition among children is one major problem.
- ✓ Since BPO brought the multi culture environment in India, this sector is facing under savior pressure due to global recession.

REGIONAL DISPARITIES

Regional disparities are also a major concern for India due to **different culture and traditions**. Traditional cultures, caste system and the rich & poor feelings favored some specific groups as a result, the regional disparities raised in India before and after independence. And also, due to the development in agriculture and industrial sector some regions in India developed fast and some other places still are facing the scarcity. Some of the regional disparities problems are:

- ✓ Per capita income is highest at Rs. 16,679 in Punjab and lowest per capita income is at Bihar with Rs. 3557.
- ✓ Female infant mortality varies from 12 in Kerala to 88 in Madhya Pradesh.
- ✓ Female literacy varies from 33.6% in Bihar to 88% in Kerala.
- ✓ Richer states grew faster than the poorer states.

CHALLENGES BEFORE INCLUSION-ORIENTED GROWTH STRATEGIES IN INDIA

The key components of the inclusion-oriented growth strategy included a **sharp increase in investment in rural areas**, rural infrastructure and agriculture spurt in credit for farmers; increase in rural employment through a unique **social safety net** and sharp **increase in public spending on education and health** care.

The government also should go for a variety of legislative interventions to empower the disadvantaged. Some of the challenges and opportunities before inclusion-oriented growth strategies in India are:

1. **Poverty alleviation** is one of the big challenges for India. Eradication of poverty in India is generally only considered to be a long-term goal. Poverty alleviation is expected to make better progress in the next 50 years than in the past, as a trickle-down effect of the growing middle class. **Increasing stress on education, reservation of seats** in government jobs and the increasing empowerment of women and the economically weaker sections of society, are also expected to contribute to the alleviation of poverty.
2. **For agricultural growth**, the private players can participate in to bridge the gap including providing micro finance. **Contract farming**, setting up **storage facilities** for agro-produce, and producing them from farmers. The private sector could also develop heritage sites and tourist spots and encourage the **promotion of traditional arts** and crafts in **joint ventures with rural enterprises**. The government of India should also increase its present moratorium on interest payments, lowering of farm credit rates for increase in agricultural growth.
3. **Government schemes** should target eradication of both poverty and unemployment (which in recent decades has sent millions of poor and unskilled people into urban areas in search of livelihoods) attempt to solve the problem, by providing **financial assistance** for setting up businesses, skill honing, setting up public sector enterprises, reservations in governments, etc. The decreased role of the public sector after liberalization has further underlined the need for focusing on **better education** and has also put political pressure on further reforms.
4. **Child labor** is a complex problem that is basically rooted in poverty. The Indian government is implementing the **world's largest child labor elimination program**, with primary education targeted for around 250 million. Numerous non-governmental and voluntary organizations are also involved.
5. Special investigation cells have been set up in states to enforce existing laws **banning employment of children** (under 14) in hazardous industries. The allocation of the Government of India for the eradication of child labor was \$10 million in 1995-96 and \$16 million in 1996-97. The allocation for 2007 is \$21 million. Failure to implement the law and poor rehabilitation policies need urgent attention which is a big challenge for India to achieve inclusive growth. Social development is possible through achieving **Women Empowerment** and eradicating the regional disparities.
6. Though the Government is giving the women empowerment by giving special reservations, the women's advancement in India is still not matched the expectations for inclusive growth. Presently, the **women** are dealing with the **top posts** in India like President, Lok Sabha Speaker and Railway Minister.
7. To bring in inclusive growth, it is necessary to enhance the capabilities of women by providing education, so that they get the opportunity of getting employed and be self sustainable. Government of India has stepped up for inclusion-oriented growth by

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launching **many initiatives** with features that are innovative, flexible and reform oriented such as:

- ✓ Rural Infrastructure(Bharat Nirman)
- ✓ Employment(National Rural Employment Guarantee Scheme)
- ✓ Regional Development (backward District Development Program)
- ✓ Education (Sarva Shiksha Abhiyan)
- ✓ Rural Health(National Rural Health Mission)
- ✓ Urban Infrastructure (National Urban Renewal Mission)

CONCLUSIONS

1. Since, **agriculture holds the key** to rural income, food self sufficiency, relative stability in prices, the budget package for farmers, the **11th five year plan also gave 8.55% to the Agriculture and Irrigation** to the total Plan outlay. Hence, these benefits are expected to contribute for improved farm productivity and thus contribute to the economy as well as for inclusive growth.
2. **Gender equality and women's empowerment** are human rights that lie at the heart of development and the achievement of the Millennium Development Goals.
3. Government's initiatives to achieve inclusion-oriented growth should reach to the end needy people in due time. If it is done, definitely inclusion-oriented growth can be achieved at a less time span.
4. **Poverty and Employment** has a good relation. If Poverty is to be removed, then definitely the employment is the key.
5. **Better infrastructure** facilities and through investments in public and private sector is likely to strengthen further, giving a boost to economic growth.
6. The Urban-rural divide has to be bridged ad rural areas integrated with the economic processes to **ensure equitable and inclusive growth**.
7. The **private sector** has an **important role to play** in enhancing employment opportunities in farm and non-farm enterprises in rural areas, and should provide the necessary expertise to these areas.
8. **Education, Increased technology, women's economic and social empowerment economic reforms and efficiency** improvements in the economy will reinforce the country's confidence in the high-growth phase and thus contribute to inclusive growth.
9. Development of **production sector, BPO's, infrastructure** and structural change in agriculture – industry – services will create productive employment.
10. For the global competition, country needs to have inclusive growth; hence all the above challenges and opportunities will contribute to the **inclusion-oriented growth strategies** in India.

ISSUES RELATED TO POVERTY & HUNGER

ISSUE-X: FINANCIAL INCLUSION

“Financial inclusion means **delivery of financial services** at an affordable cost to vast sections of disadvantaged and low income groups”.

There have **various barriers** in the access to formal banking system to all the population and to every area. Some have been identified as relating to culture, education (especially financial literacy), gender, income and assets, proof of identity, remoteness of residence, and so on. Efforts are being made by the authorities- especially banking regulators to improve access to affordable financial services through financial education, leveraging technology and generating awareness in order to create enabling conditions such that markets become more open, more competitive, affordable and inclusive.

Limited access to affordable financial services such as savings, loan, remittance and insurance services by the vast majority of the population in the rural areas and unorganized sector is believed to be acting as a constraint to the growth impetus in the various sectors identified for growth in the country. Access to affordable financial services - especially credit and insurance - enlarges livelihood opportunities and empowers the poor to take charge of their lives. Such empowerment aids social and political stability.

Apart from these benefits, inclusion imparts formal identity, provides access to the payments system and to savings safety net like deposit insurance. Hence inclusion is considered to be critical for achieving inclusive growth; which itself is required for ensuring overall sustainable growth in the country.

TYPES OF FINANCIAL EXCLUSION

- A. Exclusion from payment system : not having access to bank accounts
- B. Exclusion from formal credit markets leading to approaching informal/ exploitative markets

WHO ARE EXCLUDED?

Marginal farmers – landless labour – oral lessees – self employed – unorganized sector – urban slum dwellers – migrants – ethnic minorities – socially excluded groups – senior citizens – women – NER, Eastern & Central regions most excluded.

REASONS FOR EXCLUSION

- Barriers for poor people to access appropriate financial services include socio-economic factors e.g., lack of education-illiteracy-awareness, gender and age, low and irregular income, and geography,

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- Distance from bank branch, branch timings, cumbersome documentation/procedures, unsuitable products, language, staff attitude are common reasons
- Ease of availability of informal credit, regulatory factors e.g. mandatory requirements of identity documentation and product design factors.
- KYC – documentary proof of identity/ address
- High transactions costs of borrowers, savers as well as banks
- High risk cost

FACTS ABOUT FINANCIAL INCLUSION

- Financial exclusion is experienced by both developing and developed economies alike.
- The World Bank estimates that **2.7 billion people**, over half the population of the developing world, live on **less than US\$ 2 a day**.
- RBI data shows that as many as **139 districts** suffer from massive financial exclusion, with the adult population per branch in these districts being above 20,000 and **only 3 % with borrowings from banks**.
- On the assumption that each adult has only one bank account (which does not hold good in practice, so that actual coverage is likely to be worse) on an all India basis, 59 % of the adult population in the country has bank accounts.
- **41 %** of the population is, therefore, **unbanked**. In rural areas the coverage is 39 % against 60 % in urban areas.
- The unbanked population is higher in the 2 poorer regions of the country, and is the worst in the **North-Eastern** and **Eastern regions**.
- Out of 203 million households in the country, **147 million** are in rural areas 89 million are farmer households.
- **51.4 %** of farm households have **no access to formal or informal sources** of credit while 73 % have no access to formal sources of credit.

NEED FOR FINANCIAL INCLUSION

- Limited access to savings, loans, remittance & insurance are **major constraint to growth**.
- These services **enlarge livelihood opportunity & empowers poor**
- **Empowerment aids socio-political stability**
- Financial inclusion **provides formal identity, access to payments**

FINANCIAL SERVICES INCLUDES

- ❖ Savings
- ❖ Credit
- ❖ Insurance
- ❖ Remittance facilities etc.

HOW FINANCIAL INCLUSION CAN ADDRESS GROWTH EQUITY AND PRO-POOR GROWTH

- Financial sector development and deepening, **drives economic growth** by **mobilizing savings** and **investing** in the growth of the productive sectors.

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- The institutional infrastructure of the financial system contributes to **reducing contracting & transaction costs**, which in turn accelerates economic growth and promotes pro-poor growth.
- Increasing financial inclusion **reduces the economic vulnerability of households**, promotes economic growth, **alleviates poverty** and improves the quality of peoples' lives.
- FI essential for **inclusive growth** which is necessary for sustainable overall economic growth.

Thus, expansion of banking leads to **increasing availability of finance** to spur economic growth and helps alleviate poverty.

RBI INITIATIVES TOWARDS FINANCIAL INCLUSION

- **1969-1991**: expansion of branch network – **average population covered per branch** reduced from 64000 to **13711** – liberalization/ opening of economy – financial sector reforms – deregulation – increased competition – strengthening of banks through recapitalization – prudential measures – Indian banking now robust & able to achieve global financial inclusion.
- **November 2005** : banks advised to provide basic banking –**no frills** accounts with low or minimum balance/ charges – expand banking outreach to larger sections of population – printed material used by retail customers made available in local language
- **Know Your Customer (KYC)** principles **simplified** to open accounts for customers in rural & urban areas – Balances not to exceed Rs. 50000 & credits Rs. 1 lakh in a year.
- **General purpose Credit Card (GCC)** facility up to Rs. 25000 at rural & urban branches, Revolving credit, Withdrawal up to limit sanctioned, Based on household cash flows -- No security or collateral, Interest rate deregulated.
- **One-Time Settlement (OTS)** for overdue loans up to Rs. 25000 – Borrowers eligible (after OTS) for fresh credit
- **January 2006** : Bank allowed to use services of NGOs, SHGs, micro finance institutions, civil society organisations as business facilitators/ correspondents (BC) for extending banking services – BCs allowed to do –cash in-cash out transactions at BC locations & branchless banking
- **June 2007**: Multilingual website in **13 Indian languages** launched by RBI providing information on banking services
- April 2006: **1 district in each state identified** by SLBC for **100% financial inclusion**.
- Kisan Credit cards (KCCs) used for **credit first, then savings** – with small overdraft facility or GCCs with revolving credit up to a specified limit
- In association with insurance companies, **banks providing insurance cover** for life, disability & health cover.
- SCBs & RRBs being **revived/strengthened** with incentives for better governance.
- Payments system being improved to cater to less developed parts of the country
- Setting up of **financial literacy centers**, Credit counseling centers, National financial literacy drive, Linkage with informal sources with safeguards, IT solutions, Low cost remittance products etc.
- 2007 Budget: 2 Funds :

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- 1 **Financial Inclusion Fund** - developmental/promotional work
 - 2 **Financial Inclusion Technology Fund** – technology adoption/innovation – Each Fund of \$ 125 million
- Government constituted 10-Member **Committee under Dr. C. Rangarajan's** (Chairman: PM's Economic Advisory Council) **on Financial Inclusion.**

Financial inclusion is **not mere State Benefit Transfers**. Loans must be extended and savings and borrowings habits need to be inculcated among the poor. Poor do not require cheap credit but prompt credit. It is an anomaly that while they are pressed to pay exorbitant rates of interest to the money lender, the mainstream financial institutions are still shy of lending to them. In the ultimate analysis, financial inclusion is a driver of economic growth and poverty alleviation.

Inclusive financial sector development makes two complementary contributions to **poverty alleviation**: financial sector development is a driver of economic growth which indirectly reduces poverty and inequality; and appropriate, affordable, financial services for poor people. Critical to our efforts at securing sustained economic growth are the expansion of last mile access to finance. Thus financial inclusion is no longer a policy choice but is a policy compulsion.

FINANCIAL INCLUSION AS A DRIVER FOR INCLUSIVE GROWTH

Inclusive growth is the **biggest challenge** that the nation faces and it is important to ensure that while the Indian economy grows rapidly, all segments of society are part of this growth process, preventing any regional disparities from derailing such growth. Thus, there is an **urgent need today to provide financial services to all households** that are excluded from formal financial services. Here, it must be remembered that the financial sector is probably the only sector that has the **ability to act as a facilitator and multiplier** for **overall economic growth** and stability.

A well spread out financial system engenders economic activity by mobilizing savings into the formal financial system, **providing an avenue** to urban workers to remit money to their families in villages besides **weaning them away from the clutches of usurious moneylenders**. This is even as it connects all parts of the country to the market economy and mitigates risks by ensuring that the poor have access to a variety of social security products, like **micro-savings, micro-credit, micro-insurance, and micro-pension products**.

Financial inclusion has been identified as a **priority sector** in the government's efforts to make the growth process more equitable and inclusive, and technology is playing a pivotal role in this process by reducing the cost of delivery while increasing the sector's efficiency and productivity. It is recognised by all that in the long run, the financial services sector must have the ability to service the entire real sector of the economy. This shall **increase its efficiency, vibrancy, effectiveness and productivity of the real economy**.

The objective of the financial deepening process is to ensure the creation of adequate social security nets that shall provide citizens with a choice of financial products, including pension, insurance and saving instruments. It will also **enable the**

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household sector to convert physical assets into financial assets, which can be leveraged for productive activities spurring economic activity. Financial Inclusion is also important as it provides an avenue to the poor for bringing their savings into the formal financial system. It is thus **essential to extend banking services to the rural hinterland** at the earliest in order to include these regions in India's growth story. The provision of banking and financial services to the rural hinterland will be an enabler for inclusive growth.

STRATEGY:: WHAT IS BEING DONE?

The country's banking system has already formulated its road map for ensuring financial inclusion and has identified nearly 73,000 habitations across the country, having a population of over 2,000 for providing banking facilities **by the year 2012**. This is estimated to cover nearly 50 million rural households and the banks hope to cover these households using a mix of the banking correspondent model, hand-held devices and mobile telephony to achieve this aim.

Here, the regulators are looking into the security concerns over the **use of micro ATM computers, biometric identification** and are perfecting the technology, building into it the necessary security essential for customer protection. Also, the business correspondent model can be used for selling micro-pension products like **Swavalamban** as also micro insurance products. And the challenge of educating business correspondents to provide such financial services and achieving interoperability between financial institutions is the next set of challenges that the country's banking system is going to face.

A key facilitator for enabling the country's banking system to spread its reach can be the **unique identification number** that the Unique Identification Authority of India (UIDAI) has been mandated to do. In fact, the UID will enable better delivery of services and effective governance to all and that too at a reduced cost. The UID project is primarily aimed at ensuring inclusive growth by providing a form of identity to those who do not have any identity. It seeks to provide UIDs to the marginalized sections of society and thus strengthen equity. UIDAI believes that the plan of issuing Aadhaar numbers to the intended 600 million residents over the next four years and setting up an online biometric authentication service will help address many of the current challenges faced by the banks in delivery of financial services.

Recognizing the fact that the agriculture sector can be a key driver of taking banking services to the excluded, the banks are trying to ensure that each farmer in India, especially small and marginal, has a smart **Kisan Credit Card** and **access to bank credit**. This is especially important since over the years the agricultural sector's contribution to national GDP has decreased at a much faster rate than the number of people it supports; currently, 56 per cent of the population involved in agriculture account for only 18 per cent of the GDP. Thus, it is important that if farm productivity is to improve, timely credit to farmers is vital, and technology has an important role to play in ensuring timely credit to the agriculture sector.

In this context, the government is seeking to add various loan products to its portfolio of financial offerings to the agriculture sector. If the first phase of taking banking services to the agriculture and related sectors included deposits, withdrawals

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and remittances, the second phase include loan products. These loan products, which are in the range of Rs 10,000-15,000, are being offered through **general credit cards (GCC)** and kisan credit cards (KCC) for economic activities.

Today, the most popular vehicles of taking Micro Finance to the rural hinterland are the **Self Help Groups (SHGs)** and the **Micro Finance Institutions (MFIs)** - bank linkage models. The SHG-bank linkage programme was launched by NABARD in 1992, synthesizing the formal financial system and the informal sector, and is today considered as the largest micro-finance programme in terms of outreach in the world.

The model enables members of an SHG to make small, but regular, savings, which are then revolved or loaned to its members. This model involves the SHGs being financed directly by the **commercial banks, Regional Rural Banks (RRBs)** and **Cooperative Banks**. Similarly, the MFI-bank linkage model covers financing of MFIs by banks and other institutions for on-lending to small borrowers, who may sometimes be organised into joint liability groups. The penetration of the **Micro Finance Institutions is maximum in six states**: Andhra Pradesh, Tamil Nadu, Karnataka, Orissa, Maharashtra and West Bengal.

In India, the absence of a country-wide **social security system** (formal pension coverage being only about 12 per cent of the working population), ageing and social change are important considerations for introducing pension reform in the unorganized sector. To address this problem and to encourage workers in the unorganized sectors, the Government announced the **Swavalamban Scheme in 2010-11**. Under this, the Government contributes Rs 1,000 to each Swavalamban subscriber, who joins the national pension scheme and contributes between Rs 1,000 and Rs 12,000 each year for a minimum of three years. These contributions are invested in different financial instruments whose returns are used to build the pension corpus. The Government is committed to encourage the unorganised sector workers to join the Swavalamban Scheme so that they can lead a safe, secured and dignified life.

But these are only the **initial steps** that have been taken to foster financial inclusion. Over the last 10 years India's per capita income has nearly doubled, with certain years accounting for an 8 per cent GDP growth rate. The banking sector has also grown rapidly during the same period. The deposit base of banking industry has increased by over five times and outstanding credit by over seven times in the last 10 years; helping unlock the potential of people and industries. Today, there is an urgent need to fast-track the financial inclusion initiatives, dovetailing these suitably with the technology that is on hand.

RIGHT TO INFORMATION

Right to information has been seen as the **key to strengthening participatory democracy** and ushering in **people centered governance**. Access to information can **empower the poor and the weaker sections** of society to demand and get information about public policies and actions, thereby leading to their welfare.

Without good governance, no amount of developmental schemes can bring improvements in the quality of life of the citizens. **Good governance has four elements-** transparency, accountability, predictability and participation. **Transparency refers to availability of information** to the general public and clarity about functioning of governmental institutions.

Right to information **opens up government's records to public scrutiny**, thereby arming citizens with a vital tool to inform them about what the government does and how effectively, thus making the government more accountable. Transparency in government organisations makes them **function more objectively** thereby enhancing predictability. Information about functioning of government also enables citizens to **participate in the governance process effectively**. In a fundamental sense, **right to information is a basic necessity of good governance**.

In recognition of the need for transparency in public affairs, the **Indian Parliament enacted the Right to Information Act in 2005**. It is a path breaking legislation empowering people and promoting transparency. While right to information is implicitly guaranteed by the Constitution, the Act sets out the **practical regime for citizens** to secure access to information on all matters of governance.

This law is **very comprehensive and covers almost all matters** of governance and has the widest possible reach, being applicable to government at all levels – Union, State and Local as well as recipients of government grants. Access to information under this Act is extensive with minimum exemptions. Even these exemptions are subject to strict safeguards.

The right to information is necessary due to the following reasons:

- It makes administration more **accountable** to people
- It **reduces the gap** between administration and people.
- It makes people **aware** of administrative decision-making.
- It facilitates **better delivery** of goods and services to people by civil servants.
- It facilitates intelligent and **constructive criticism** of administration.
- It increases **people's participation** in administration.
- It **promotes public interest** by discouraging arbitrariness in administrative decision-making.
- It **reduces the scope for corruption** in public administration.
- It upholds the **democratic ideology** by promoting openness and transparency in administration.
- It makes administration more **responsive** to the requirements of people.

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- It reduces the **chance of abuse** of authority by the public servants.

Sweden was the **first country in the world** to introduce the **right to information**. It had conferred this right on its citizens through a direct constitutional provision, way back in 1766. In this country, access to government documents is a right and non-access an exception. Sweden was followed by other Scandinavian countries but very lately. Thus, **Finland enacted the Freedom of Information legislation** in 1951. **Denmark and Norway** have made the similar legislations in the same year (1970). **USA** has granted the right to information to its citizens by the **Freedom of Information Act (1966)**.

France, Netherlands and Austria have made the similar legislations in the 1970s. **Canada, Australia and New Zealand** have done it in 1982. **Thailand and Ireland** have made the law in the same year (1977). **Bulgaria** enacted it in 2000. In **South Africa**, the right to information is guaranteed by the constitution itself. This right of the citizens has been further reinforced by enacting legislation in 2000. **In Britain**, the Freedom of Information Act came into force in 2005.

RTI IN INDIA: EVOLUTION

The **MKSS** (Mazdoor Kisan Shakti Sangthan), a local NGO in Rajasthan played a pioneering role in mobilising the rural masses to compel government to disclose information about expenditure in rural public works project. Other **major NGOs** that demanded from time to time electoral reforms and freedom of information are **Lok Satta**, People's Union for Civil Liberties (**PUCL**), Association for Democratic Reforms, and others.

Supreme Court in the landmark case of State of Uttar Pradesh vs. Raj Narain (1975) observed that, the right to information is implied in the **right to freedom of speech and expression** under **Article 19 (1)** and right to life guaranteed under Article 21 of the Constitution. Constitution has **no direct provision** expressly conferring right to information.

5th Pay Commission (1994-96) dwelt at length on the need for 'openness' in government defined as 'easy and speedy access to right information'. In **1997**, the Government of India had set up a **Working Group on Right to Information and Promotion of Open and Transparent Government** under the Chairmanship of H.D. Shourie. **Conference of Chief Ministers** in 1997 recognised that secrecy and lack of openness in government business is largely responsible for corruption in official dealings.

NDA Government introduced the Freedom of Information (FOI) Bill, 2000 in Parliament, which, however, could not be pushed through because of lack of political will. Subsequently, Freedom of Information Act (2002) was passed. In order to ensure greater and more effective access to information, the Government resolved that the **Freedom of Information Act, 2002** enacted by the Parliament needs to be made more progressive, participatory and meaningful. In view of significant changes proposed in the existing Act, Government also decided to repeal the Freedom of Information Act, 2002.

The **Right to Information Act, 2005** was passed by the **Lok Sabha on 11th May, 2005** and by the **Rajya Sabha on 12th May, 2005** and it received the

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President's assent on 15th June, 2005.

HINDRANCES TO INFORMATION	STATE INFORMATION ACTS
<ul style="list-style-type: none">▪ Indian Evidence Act, 1872▪ Official Secrets Act, 1923▪ Commission of Enquiry Act, 1952▪ All-India Services (Conduct) Rules, 1954▪ Central Civil Services (Conduct) Rules, 1955▪ Railway Services (Conduct) Rules, 1956	<ul style="list-style-type: none">▪ Tamil Nadu (1st State) - 1997▪ Goa - 1997▪ Rajasthan - 2000▪ Karnataka - 2000▪ Delhi - 2001▪ Maharashtra - 2002▪ Assam - 2002▪ Madhya Pradesh - 2003▪ Jammu & Kashmir - 2004

THE RIGHT TO INFORMATION ACT, 2005

An outstanding feature of the Act is the provision for **Information Commissions**- independent high-level bodies at both the Central and the State levels that are dedicated to **encouraging the citizen's right to know** and enforcing the provisions of the Act.

Information means **any material in any form** including records, documents, memos, e-mails, opinions, advices, press releases, circulars, orders, logbooks, contracts, reports, papers, samples, models, data material held in any electronic form and information relating to any private body which can be accessed by a public authority under any law at the time being in force but **does not include file notings**. The Act overrides the **Official Secrets Act, 1923**, that information commissions can allow access to information if public interest overweighs harm to protected persons.

What 'Public Authority' Means

By or under Constitution or by any other law made by Parliament or State Legislature
By notification issued by appropriate Government & includes anybody owned, controlled or substantially financed
Non-Government organization substantially financed directly or indirectly by the appropriate Government

Public Information Officers (PIOs)

Public Information Officers (PIOs) are officers designated by the public authorities in all administrative units or offices under it to provide information to the citizens requesting for information under the Act. The **duties of a PIO** are following:

PIO shall deal with requests from persons seeking information and where the request cannot be made in writing, to **render reasonable assistance**

PIO shall either provide the information **within 30 days** of receipt of the request

Where a **request has been rejected**, the PIO shall communicate to the reasons for such rejection.

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What Information Excluded From Disclosure

Which affect the sovereignty & integrity of India, security, strategic, scientific or economic interests, relation with foreign State or lead to incitement of an offence.

Expressly forbidden by **any court or tribunal** to be published.

Cause a breach of **privilege of Parliament** or the State Legislature.

Commercial confidence, **trade secrets or intellectual property**.

Available to a person in his fiduciary relationship.

Received in **confidence from foreign government**, the disclosure of which would endanger the life or physical safety of any person.

Impede **process of investigation**.

Cabinet papers including records of deliberations of the Council of Ministers.

Personal information, the disclosure of which has no relationship to any public.

All exempted information can be **disclosed after 20 years** with few exemptions.

Who is excluded?

Central Intelligence & Security agencies specified in 2nd Schedule

Agencies specified by the State Governments through a Notification. The exclusion, however, is **not absolute** and these organizations have an obligation to provide information pertaining to allegations of corruption and human rights violations.

Further, information relating, to allegations of **human rights violations** could be given **but only with the approval** of Central or State Information Commission.

Applications for Information

- **Application Procedure** for requesting information is to apply **in writing or through electronic means** in English or Hindi or in the official language of the area, to the PIO; reasons for seeking information are required to be given.
- The time limit to get the information:
30 days from the date of application
48 hours for information concerning the **life or liberty** of a person
If the interests of a **third party** are involved then time limit will be **40 days**
- No **fees** will be charged from people living below the poverty line.
- It carries **strict penalties** for failing to provide information which include departmental proceedings against the erring official, and a fine of **Rs. 250 per day** (subject to a **maximum of Rs 25000**) if information is delayed beyond 30 days without reasonable cause.
- The appeal against denial of information lies first to superior PIO, then to Information Commission and then to High Court.

CENTRAL AND STATE INFORMATION COMMISSIONS

Central Information Commission is to be constituted by the Central Government. It includes 1 Chief Information Commissioner (CIC) and not more than 10 Information Commissioners (IC) who will be **appointed by the President**.

Appointment Committee includes PM (Chair), Leader of the Opposition in the Lok Sabha and 1 **Union Cabinet Minister** to be nominated by the Prime Minister. **Oath of office** will be administered by the Governor according to the form set out in the

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First Schedule.

CIC/IC must be **persons of eminence in public life** with wide knowledge and experience in law, science and technology, a social service, management, journalism, mass media or administration and governance.

CIC/IC shall not be Member of the Legislature of any State or UT. He shall not hold any other office of profit or, connected with any political party or carrying on any business or pursuing any profession.

CIC and ICs shall be appointed for a term of **5 years** from the date on which he enters upon his office or till he attains the age of **65 years**, whichever is earlier. They are **not eligible for re-appointment**. IC is eligible for appointment as CIC but will not hold office for more than a total of 5 years including his/her term as IC.

Salary of CIC will be the same as that of the **Chief Election Commissioner** and that of ICs equivalent to Election Commissioner. This will not be varied to their disadvantage.

Commission shall have its Headquarters in **Delhi**.

State Information Commission will be constituted by the State Government. It will have 1 State Chief Information Commissioner (SCIC) and not more than 10 State Information Commissioners (SIC) to be appointed by the Governor.

Appointments Committee will be headed by the CM. Other members include the Leader of the Opposition in the Legislative Assembly and 1 Cabinet Minister nominated by the Chief Minister.

The **qualifications** for appointment as SCIC/SIC shall be the same as that for Central Commissioners.

The salary of the State Chief Information Commissioner will be the same as that of an Election Commissioner. The salary of the State Information Commissioner will be the same as that of the **Chief Secretary** of the State Government.

Central Information Commission/State Information Commission has a **duty to receive complaints** from any person who has been refused information or received no response or thinks information given is incomplete or false or thinks the fees charged are un-reasonable;

CIC/SCIC will have **powers of Civil Court**

CIC will send an annual **report** to the Central Government at the end of the year to be placed before Parliament. SIC will send a report to the State Government to be placed before Vidhan Sabha

OFFICIAL SECRETS ACT AND OTHER LAWS

The **most contentious issue** in the implementation of the Right to Information Act relates to **official secrets**. In a democracy, people are sovereign and the elected government and its functionaries are public servants. Therefore by the very nature of things, **transparency should be the norm** in all matters of governance. However it is well recognized that public interest is best served if certain sensitive matters affecting national security are kept out of public gaze.

Similarly, the **collective responsibility of the Cabinet** demands uninhibited debate on public issues in the Council of Ministers, free from the pulls and pressures of day-to-day politics. The Act recognizes **these confidentiality requirements** in matters of State and **Section 8 of the Act** exempts all such matters from disclosure.

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The Official Secrets Act, 1923 (OSA), enacted during the colonial era, governs all matters of secrecy and confidentiality in governance. The law largely deals with **matters of security** and provides a framework for dealing with espionage, sedition and other assaults on the unity and integrity of the nation. However, given the colonial climate of mistrust of people and the primacy of public officials in dealing with the citizens, OSA created a **culture of secrecy**.

Confidentiality became the norm and disclosure the exception. This tendency was buttressed by the **Civil Service Conduct Rules, 1964** which prohibit communication of an official document to anyone without authorization. Not surprisingly, **Section 123 of the Indian Evidence Act**, enacted in 1872, prohibits the giving of evidence from unpublished official records without the permission of the Head of the Department, who has abundant **discretion in the matter**.

THE OFFICIAL SECRETS ACT

Section 5 of OSA, is the catch all provision. As per this Section, any person having information about a prohibited place, or such information which may help an enemy state, or which has been entrusted to him in confidence, or which he has obtained owing to his official position, **commits an offence** if (s)he communicates it to an unauthorized person, uses it in a manner **prejudicial to the interests of the State**, retains it when (s)he has no right to do so, or fails to take reasonable care of such information. Any kind of information is covered by this **Section if it is classified as 'secret'**. The word 'secret' or the phrase 'official secrets' has **not been defined in the Act**. Therefore, public servants enjoy the discretion to classify anything as 'secret'.

The Supreme Court in **Sama Alana Abdulla vs. State of Gujarat (1996)** has held: (a) that the word 'secret' qualified official code or password and not any sketch, plan, model, article or note or other document or information and (b) when the accused was found in conscious possession of the material (map in that case) and no plausible explanation has been given for its possession, it has to be presumed as required by of the Act that the **same was obtained or collected by the appellant for a purpose prejudicial to the safety or interests of the State**.

Therefore, a sketch, plan, model, article, note or document need not necessarily be secret in order to be covered by the Act, provided **it is classified as an 'Official Secret'**. Similarly, even information which does not have a bearing on national security **cannot be disclosed** if the public servant obtained or has access to it by virtue of holding office. Such illiberal and draconian provisions clearly bred a culture of secrecy. Though the **RTI Act now overrides these provisions** in relation to matters not exempted by the Act itself from disclosure, the fact remains that OSA in its current form in the statute books is an anachronism.

The Law Commission in its 43rd Report (1971) summarized the difficulties encountered with the all inclusive nature of Section 5 of OSA, in the absence of a clear and concise definition of 'official secret'. **The Law Commission recommended consolidation of all laws** dealing with national security and suggested a —National Security Bill. The various enactments in force in India dealing with offences against the national security are:

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chapters 6 and 7 of the Indian Penal Code ;
the Foreign Recruiting Act, 1874;
the Official Secrets Act, 1923;
the Criminal Law Amendment Act, 1938;
the Criminal Law Amendment Act, 1961; and
the Unlawful Activities (Prevention) Act, 1967.

The National Security Act (NSA), subsequently enacted in 1980, essentially replaced the earlier Maintenance of Internal Security Act and deals only with preventive detention. Therefore, a new chapter needs to be added to the NSA incorporating relevant provisions of OSA and other laws dealing with national security.

Working Group constituted under the Chairmanship of Shri H. D. Shourie on –Right to Information and Transparency, 1997. The Shourie Committee recommended a comprehensive amendment of **Section 5(1)** to make the penal provisions of OSA applicable only to violations affecting national security.

However the Ministry of Home Affairs, on consultation expressed the view that there is no need to **amend OSA as the RTI Act** has overriding effect. **OSA, in its present form is an obstacle for creation of a regime of freedom of information**, and to that extent the provisions of OSA need to be amended. **Shourie Committee** reconciles harmoniously the need for transparency & imperatives of national security.

Recommendations of 2ND ARC

- a. **The Official Secrets Act, 1923 should be repealed**, and substituted by a chapter in the National Security Act, containing provisions relating to official secrets.
- b. The equivalent of the **existing Section 5**, in the **new law may be on the lines recommended by the Shourie Committee as quoted below.**

-5(1): If any person, having in his possession or control any official secret which has come into his possession or control by virtue of:

his holding or having held an office with or under government, or
a contract with the government, or

it being entrusted to him in confidence by another person holding or having held an office under or with the government, or in any other manner,

communicates, without due authority such official secret to another person or uses it for a purpose other than a purpose for which he is permitted to use it under any law for the time being in force; or

fails to take reasonable care of, or so conducts himself as to endanger the safety of the official secret; or

willfully fails to return the official secret when it is his duty to return it,

shall be **guilty of an offence** under this section.

- c. **Section 5(2):** Any person voluntarily receiving any official secret knowing or having reasonable ground to believe, at the time he receives it, that the official secret is communicated in contravention of this Act, **shall be guilty of an offence under this section.**

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- d. **Section 5(3):** A person guilty of an offence under this section shall be punishable with imprisonment for a term which may extend to **three years or with fine or with both.**
- e. **Section 123 of the Indian Evidence Act, 1872 should be amended** to read as follows:
- **Section 123 (1):** Subject to the provisions of this section, **no one shall be permitted to give** any evidence derived from official records, which are exempt from public disclosure under the RTI Act, 2005.
 - **Section 123 (2):** Where he withholds such permission, he shall **make an affidavit** containing a statement to that effect and setting forth his reasons there for.
 - **Section 123 (3):** Where such officer has withheld permission for the giving of such evidence, the Court, after considering the affidavit or further affidavit, and if it so thinks fit, after examining such officer or, in appropriate cases, the Minister, **orally:**
 - a. **shall issue a summons** for the production of the unpublished official records concerned, if such summons has not already been issued
 - b. **shall inspect** the records in chambers; and
 - c. **shall determine the question** whether the giving of such evidence would or would not be injurious to public interest, recording its reasons therefore.
 - **Section 123 (4):** Where, under **sub-section (3)**, the Court decides that the giving of such evidence would not be injurious to public interest, the provisions of **subsection (1) shall not apply** to such evidence.

Provided that in respect of information classified as **Top Secret** for reasons of national security, only the High Court shall have the power to order production of the records.¶

Explanation: For the purpose of this section, 'Official Secret' means any information the disclosure of which is likely to prejudicially affect the sovereignty and integrity of India, the security of State, friendly relations with foreign states, economic, commercial, scientific and technological matters relating to national security and includes: any secret code, password, sketch plan, model, article, note or document in relation to a prohibited place.¶

Section 124 of the Indian Evidence Act will become redundant on account of the above and will have to be repealed.

THE OATH OF SECRECY

A Union Minister, while assuming office, is administered an oath of secrecy. A Minister in the State Government takes a similar oath. The National Commission to Review the Working of the Constitution (**NCRWC**), while examining the Right to Information had the following to say: The traditional insistence on secrecy should be discarded. **In fact, we should have an oath of transparency in place of an oath of secrecy**¶.

A Minister is a bridge between the people and the Government and owes his primary allegiance to the people who elect him. The existence of this provision of oath of secrecy and its administration along with the oath of office appears to be a

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legacy of the colonial era where the public was subjugated to the government. **However, national security and larger public interest** considerations of the country's integrity and sovereignty may require a Minister or a public servant with sufficient justification not to disclose information. But a very public oath of secrecy at the time of assumption of office is both unnecessary and repugnant to the principles of democratic accountability, representative government and popular sovereignty.

Recommendations of 2nd ARC

- a. As an **affirmation of the importance of transparency** in public affairs, Ministers on assumption of office may take an oath of transparency along with the oath of office and the requirement of administering the oath of secrecy should be dispensed with. **Articles 75(4) and 164 (3)**, and the Third Schedule should be suitably amended.
- b. **Safeguard against disclosure of information** against the national interest may be **provided** through written undertaking by incorporation of a clause in the national security law dealing with official secrets.

EXEMPTED ORGANIZATIONS

Certain categories of organizations have been exempted from the provisions of the Act: The list of organizations includes Border Security Force (BSF), Central Reserve Police force (CRPF), Assam Rifles etc., but the **Armed Forces have been left outside the purview of the Act**. When organizations such as BSF, CRPF, Assam Rifles are exempted, there is no rationale for not exempting the Armed Forces as well. **The Second schedule needs to be periodically revised** to include or exclude organizations in keeping with changing needs.

The Act provides for disclosure when allegations of corruption and human rights abuses are made even in respect of the organizations included in the Second Schedule. Therefore, by **including Armed Forces in the Second Schedule**, while national security is safeguarded, disclosure is **still mandatory** when public interest demands it.

The organizations included in the Second Schedule **need not appoint PIOs**. A question arises that in case of request for information pertaining to allegations of corruption and.

Recommendations of 2nd ARC

- a. The Armed Forces should be included in the Second Schedule of the Act.
- b. The Second Schedule of the Act may be reviewed periodically.
- c. All organizations listed in the Second Schedule have to appoint PIOs. Appeals against orders of PIOs should lie with CIC/SICs.

THE CENTRAL CIVIL SERVICES (CONDUCT) RULES

The Central Civil Services (Conduct) Rules **prohibit unauthorized communication of information** (similar provisions exist for the state government employees under their respective Rules). **The Shourie Committee** examined this issue

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and stated as follows: - There is a widespread feeling that the Central Civil Services (Conduct) Rules, 1964, and corresponding rules applicable to Railways, Foreign Services and All India Services, inhibit government servants from sharing information with public. The accent in these rules is on denial of information to public.

The Central Civil Services (Conduct) Rules **were formulated when the RTI Act did not exist**. The spirit of these Rules is to hold back information. With the emergence of an era of freedom of information, **these Rules would have to be recast so** that dissemination of information is the rule and holding back information is an exception. The Department of Personnel and Training has **amended the Civil Services (Conduct) Rules on these lines in Oct. 2005**. However all States need to amend rules in a similar manner in keeping with the letter and spirit of RTI Act.

Recommendations of 2nd ARC

a. Communication of Official Information: -Every Government servant shall, in performance of his duties in good faith, **communicate to a member of public or any organisation full and accurate information**, which can be disclosed under the Right to Information Act, 2005.¶

Explanation – Nothing in this rule shall be construed as permitting communication of classified information in an unauthorized manner or for improper gains to a Government servant or others.¶

THE MANUAL OF OFFICE PROCEDURE

The Manual of Office Procedure was prepared **when the RTI Act was not in existence**. These provisions are **totally violative of the Act** and hence need to be brought in conformity with the Act. The Act also **defines –information**¶ to mean any material in any form, including records, documents, memos, e-mails, opinions, advices, press releases, circulars, orders, log books, contracts, reports, papers, samples, models, data material held in any electronic form and information relating to any private body which can be accessed by a public authority under any other law for the time being in force. Thus **notings and files per se will not become confidential and inaccessible unless** they are classified as such and are declared to be covered under exemption provisions of **Section 8(1) of the Act**. To bring it in conformity with the Act, the provisions regarding unauthorized communication of official information and confidential character of notes / files will have to be amended.

CONFIDENTIALITY CLASSIFICATION

Classification of information

Apart from the somewhat indiscriminate application of OSA to information which was not intended to be secret, **a major contributor to the culture of secrecy** in the government is the tendency to classify information even where such classification is clearly unwarranted. The Government of India has **issued detailed instructions** pertaining to safeguarding information in its possession, the unauthorized disclosure of

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which would cause damage to national security or would cause embarrassment to the Government in its functioning or would be prejudicial to national interest.

These instructions, which are contained in the **Manual of Departmental Security Instructions** and the **Manual of Office Procedure**, lay down guidelines to give a security classification to a record based on the degree of confidentiality required. They also describe the manner in which each of such classified information should be handled and the persons who can access such information.

The Manual of Departmental Security Instructions **deals with classification of documents and records** involving national security and sensitive matters. Once information gets a security classification it moves out of the public domain. Even the RTI Act respects the need to keep certain information outside the public domain. Section 8 of the Act lists out the exemptions under which the PIO need not give information. However it is necessary to harmonise security classification with the provisions of the Act.

The task of **classifying a document is vital in the larger national interest**, and should be handled with great caution as any security classification denies access of information to public. Therefore only officers of sufficient seniority should be empowered to classify documents. Moreover under the existing instructions, information once classified continues to be so **without any time limit**. In other countries, even war secrets are brought into public domain after a lapse of a specified period, usually 30 years. It is **therefore necessary to review** such classified documents after a reasonable period of, say 30 years (the period can be even less in case of some documents).

Further, the hierarchy of security classification needs to be rationalized, reflecting the scheme of exemptions under the Act and emerging challenges. The Act has **listed 11 categories of exemption** wherein information may not be given out. The classification system should broadly cover each of these categories of information. Although the **11 categories of information** are fairly exhaustive and cover almost all possible situations for keeping information secret, some situations which demand secrecy seem to remain out of these exemptions like confidential reports of officials, and question papers of examinations. Information in these cases should also be covered by exemptions.

IMPLEMENTATION OF THE RIGHT TO INFORMATION ACT

In order to enforce the rights and fulfill the obligations under the Act, building of institutions, organization of information and creation of an enabling environment are critical. The **steps taken so far to implement the Act** as follows:

BUILDING INSTITUTIONS

- a. Information Commissions
- b. Information Officers and Appellate Authorities

INFORMATION AND RECORD KEEPING

- a. Suo motu declaration under section 4
- b. Public Interest Disclosure

- c. Modernizing record keeping

CAPACITY BUILDING AND AWARENESS GENERATION

- a. Organizing Information and Record Keeping
- b. Training Programmes
- c. Awareness Generation

MONITORING MECHANISM

NEED FOR A COORDINATION MECHANISM

1. Building Institutions:

Information Commissions: Government of India (GOI) constituted the Central Information Commission (CIC) with a **Chief Information Commissioner** and **four Information Commissioners**.

The Act provides for selection of CIC and SICs in a bipartisan manner, and involves the Leader of the Opposition in the process. Since the Act is applicable to **all three organs of the State**, it would be appropriate to include in the selection committee the Chief Justice of the Supreme Court or High Court as the case may be. This will inspire public confidence and enhance the quality of the selection.

The Act **allows for dispersal of Information Commissions** to provide easy access to citizens. However neither the CIC nor the SICs have established offices at places other than the Capitals. For an overly citizen friendly law to be effectively implemented it is **vital to have easy access** in a vast country like ours. **CIC should be dispersed** in at least 4 regions. Similarly the SICs in larger States should be dispersed depending on population density and geographical area.

The Act visualizes a Commission wherein the **Members represent different sections of the society**. The State Governments are still in the process of appointing Information Commissioners, but an analysis of the background of the State Chief Information Commissioners indicates the preponderance of persons with civil service background. Members with civil services background no doubt bring with them wide experience and an intricate knowledge of government functioning; however to inspire public confidence and in the light of the provisions of the Act, **it is desirable that the Commissions have a large proportion of members with non civil services background**.

2. Designating Information Officers and Appellate Authorities:

All Union Ministries/Departments have **designated PIOs** thus complying with the stipulation of designating PIOs. Where more than one PIO is appointed for an office an applicant is likely to face difficulty in accessing the appropriate PIO. Thus it is desirable to designate a nodal PIO/APIO in such cases.

The Commission also noted that in GOI the level of PIOs varied from Joint Secretary to Under Secretary. Ideally the PIO should be of a **sufficiently senior rank** to be able to access information and furnish it in an intelligible and useful manner. The **law**

does not specifically provide for designating of appellate authorities as it does in case of PIOs. As a result there is avoidable confusion about the identification of appellate authorities. This needs to be rectified.

3. Organizing Information and Record Keeping:

Pro-active disclosure of important information by governmental agencies constitutes the essence of transparency in governance. Keeping in view this philosophy, the Act emphasises **suo motu disclosure**, and stipulates publication of prescribed information by all public authorities. A sample study of the disclosures shows that these are often perfunctory and lacking in substance. This underscores the need for devising protocols and effective monitoring of suo motu disclosures.

Even when the suo motu disclosure is of an acceptable quality the **question of its access still remains**. While the present **practice of web publication** should continue with regular up-dating, a printed priced publication in the local language, revised periodically (at least once a year) should be available in each public office and supplied on demand.

One important class of disclosures **not covered under the Act is public interest disclosure**. Interestingly, it is recognized in many democracies that an honest and conscientious public servant who is privy to information relating to gross corruption, abuse of authority or grave injustice **should be encouraged to disclose it in public interest** without fear of retribution. Therefore, **confidentiality of the whistle blower** in such cases if she/he seeks it as well as protection from harassment by superiors should be integral to the transparency regime. **The Law Commission**, in its 179th report (2001) **recommended** enactment of **Public Interest Disclosure (Protection) Law**.

Perhaps the **weakest link in our information system is the total neglect of record keeping**. The **Tenth Finance Commission** took note of it and recommended special grants to the States for improving record keeping. Unfortunately, land records updating and maintenance has suffered great neglect after Independence.

In many states, significant proportions of **land records no longer exist**; they are often fragile when they exist; and comprehensive land surveys have not been carried out over the past 70 years anywhere in India. **This vital area of administration**, while it is a part of land management, also forms an important part of transparency in governance. A one-time effort to update all land records, and ensure proper storage and retrieval is filled an entire room is necessary.

In many subordinate offices/ agencies of GOI and State Governments, **record keeping procedures often do not exist**. And where they exist, they are rarely followed. In most cases record keeping procedures have not been revised for decades. Even when records are stored, retrieval of intelligible information is virtually impossible. While commendable efforts have been made by a few public authorities to digitize their records and store them in an **easily retrievable manner**, these are largely pilot projects limited to a few islands of excellence.

Right to Information would be **honored only if the information exists and when it exists, it is easily retrievable and intelligible**. A combination of

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measures is required to achieve this: record keeping procedures need to be developed, reviewed and revised; cataloguing, indexing and orderly storage should be mandatory; all documents need to be converted into rational, intelligible, retrievable information modules. A road map needs to be made for digitizing of records.

Laying down meticulous procedures and creating required infrastructure by themselves would not suffice. A permanent mechanism with sufficient authority, expertise and responsibility needs to be created in each government to coordinate and supervise proper record-keeping. Therefore an **independent Public Records Office (PRO)** should be established in GOI and in each State Government. The Public Records Office should function under the **overall guidance and supervision of CIC or SIC**, as the case may be.

The Public Records Office would be a repository of technical and professional expertise in management of public records. Adequate funding needs to be assured for these agencies. As a one-time measure, the GOI may allocate one per cent (1%) of funds of the **'Flagship Programmes'** for a period of five years for improving the infrastructure, creating manuals, providing technical support and establishing Public Records Offices. GOI may have to separately consider creating a special fund for survey and updating of land records.

4. Training Programmes:

The enactment of Right to Information Act is only the first step in promoting transparency in governance. The real challenge lies in ensuring that the information sought is provided expeditiously, and in an intelligible form. **The mindset of the government functionaries**, wherein secrecy is the norm and disclosure the exception, **would require a revolutionary change**. Such a change would also be required in the **mindset of citizens** who traditionally have been reluctant to seek information.

Bringing about this radical change would require **sustained training and awareness generation programmes**. The Information Commissioner's Office in the United Kingdom has published an 'Awareness Guidance' series to assist public authorities and, in particular, staffs who may not have access to specialist advice about some of the issues, especially exemption provisions. This practice may also be adopted in India.

5. Awareness Generation:

The enactment of the **Right to Information Act** has led to an intense debate in the media on various aspects of freedom of information. Despite this, enquiries reveal that level of awareness, particularly at the **grass roots level**, is surprisingly low. In order to achieve the objectives of the Act it would be necessary that citizens become aware of their entitlements and the processes required to use this right to improve the quality of governance. **Awareness generation** so far has been largely confined to government advertisement in print media. An effective awareness generation campaign should involve multimedia efforts including street plays, **television spots, radio jingles**, and other mass communication techniques.

6. Monitoring Mechanism:

A strong monitoring mechanism is a basic necessity for ensuring successful implementation of the Act. The monitoring mechanism apart from exercising a supervisory role should be able to **detect problems in the process of implementation** and trigger corrective measures. This monitoring should be done at several levels –within the public authority, for a group of authorities in a territory, for a whole state and the country. For each department/agency, the head of the organization will be responsible for monitoring.

7. Need For A Coordination Mechanism:

Although the Act is applicable to both the Union and state governments, the field situation varies from state to state. Moreover the **State Information Commissions** are independent of the **Central Information Commission**. It would be advisable in public interest if all the Information Commissions **can share perspectives and experiences**. This would **avoid duplication of efforts**, minimize litigation and ensure uniform application of the Act throughout the country. Some of the good practices in a state or public authority could be adapted for use in other public authorities/states also.

A National Coordination Committee (NCC) may be set up under the chairpersonship of the Chief Information Commissioner with the nodal Union Ministry, the SICs and representatives of States as members. A provision to this effect may be made under **Section 30 of the Act** by way of removing difficulties. **The National Coordination Committee would:**

1. serve as a national platform for effective implementation of the Act,
2. document and disseminate best practices in India and elsewhere,
3. monitor the creation and functioning of the national portal for Right to Information,
4. review the Rules and Executive orders issued by the appropriate governments under the Act,
5. carry out impact evaluation of the implementation of the Act; and
6. perform such other relevant functions as may be deemed necessary

ISSUES IN IMPLEMENTATION

The implementation of the RTI Act is an **administrative challenge** which has thrown up various structural, procedural and logistical issues and problems, which **need to be addressed in the early stages**. Some of the problem areas in implementation are:

FACILITATING ACCESS

For seeking information, a process as prescribed under the Act has to be set in motion. The trigger is filing of a request. Once the request is filed the onus of responding to it shifts to the government agency. **A number of difficulties/impediments were noted:**

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- 1. Complicated System Of Accepting Requests:** While accepting applications, Departments insist that cash be paid at the accounts office. In Ministries, the accounts office and the PIOs office are different and at times in different locations. **The Rules also prescribe that for each extra page of information, Rs. 2 has to be paid,** for which the applicant has to go through the same process. The difficulty would get further pronounced in field offices, many of which do not have provision to collect cash. Moreover, getting a visitor's pass to enter a government building results in unwarranted waiting time. Therefore, the **process of filing requests for information needs to be simplified.**
- 2. Insistence on Demand Drafts:** Though there is a provision to pay fees through bank drafts, this poses another problem, as the bank charges Rs 35 to prepare a demand draft of Rs 10. Therefore the insistence by some departments to receive fees only through demand drafts and not in cash needs to be dispensed with.
- 3. Difficulties in Filing Applications By Post:** Under the existing dispensation, filing applications by post would necessarily involve payment of the application fee by way of demand draft or Banker's cheque. Therefore there has to be a mechanism by which requests for information are made possible through post.
- 4. Varying And Often Higher Rates Of Application Fee:** Different States have prescribed different fees in this regard. The Tamil Nadu Right to Information (Fees) Rules provides that an application fee of Rs 50 has to be paid for each request. Therefore there is a need to harmonize the fee structure.

Recommendations of 2nd ARC

1. State Governments **may issue appropriate stamps** in suitable denominations as a mode of payment of fees. Such stamps would be used for making applications before public authorities coming within the purview of State Governments.
2. As all the post offices in the country have already been authorized to function as APIOs on behalf of Union Ministries/Departments, they **may also be authorized to collect the fees in cash and forward a receipt along with the application.**

INVENTORY OF PUBLIC AUTHORITIES:

The Act defines public authorities to include a vast array of institutions and agencies. For people to access information, a catalogued and indexed list of all public authorities is necessary. Second ARC has recommended that-

- a. At the Government of India level the Department of Personnel and Training has been identified as the nodal department for implementation of the RTI Act. This nodal department **should have a complete list** of all Union Ministries/ Departments which function as public authorities.
- b. Each public authority should have the **details of all public authorities subordinate to it** at the immediately next level. This should continue till the last level is reached. All these details should be made available on the websites of the respective public authorities, in a hierarchical form.
- c. A **similar system should also be adopted by the States.**

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SINGLE WINDOW AGENCY AT DISTRICT LEVEL

Presently almost all departments and agencies of the State Government are represented at the District level. All these offices are **often dispersed and most citizens would be unaware** of their location. Therefore it is necessary to have a **Single Window Agency**, which could receive requests for information on behalf of the public authorities/PIOs which have **jurisdiction over the district** and then forward them to the respective public authority/PIO. This, apart from helping the public would also help in keeping track of the applications.

SUBORDINATE FIELD OFFICES AND PUBLIC AUTHORITIES

'Public authority' has been defined as any authority or body or institution of self-government established or constituted by or under the Constitution, by any other law made by Parliament, by State Legislatures, and by any notification issued by the appropriate Government, **including institutions substantially funded by the appropriate Government.**

This would **extend the spread of public authorities** to the level of panchayats and village patwaris across the country. Public authorities at the lower end of the administrative and/or functional hierarchies need to be identified to discharge responsibilities under of the Act, as they are closest to the people both physically and functionally.

APPLICATION TO NON GOVERNMENTAL BODIES

Under the Act, **a non-governmental body needs to be substantially financed by government** to be categorized as a public authority under the Act. There is however no definition of 'substantially financed.'

A comparison with laws of other countries reveals interesting facts. **Section 5 of the FOI Act (UK)** gives the Secretary of State, power to designate private organisations as public authorities if either they appear to him to be performing functions of a public nature; or they are carrying out functions under contract with a public authority which would otherwise be up to the authority to provide. **A small number of 'wholly publicly-owned' companies are subject** to the Freedom of Information Act in UK but the vast majority of private companies are not.

In the wake of outsourcing of functions which traditionally were performed by government agencies, it is desirable that institutions that enjoy a natural monopoly, or whose functions impinge on citizens' lives substantially, **must come under the provisions of the RTI Act.** Also it may be desirable to define what 'substantially financed' would mean, otherwise different authorities may interpret this in different ways.

Norms should be laid down that **any institution or body that has received 50% of its annual operating costs, or a sum equal to or greater than Rs.1 crore** during any of the preceding 3 years should be understood to have obtained 'substantial funding' from the government for the period and purpose of such funding. Any information which, if it were held by the government, would be subject to disclosure

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under the law, must **remain subject to such disclosure** even when it is transferred to a non-government body or institution.

TIME LIMIT FOR INFORMATION BEYOND 20 YEARS

RTI Act stipulates that any **information relating to any occurrence**, event or matter which has taken place, occurred or happened twenty years before the date on which any request is made **under section 6** shall be provided to any person making a request under that section:ll

A **uniform limit of 20 years** may on a few occasions pose problems for the Public Authorities as well as the applicants. There are a significant percentage of records which is permanent in nature. These include the records of rights maintained by the State Land Revenue Department, the Registrars and Sub Registrars of Lands, important Court Rulings, important files regarding policy decisions in various Public Authorities, Birth and Death Registrations etc. In such cases requests are received for events which may be well beyond 20 years. **On the other hand most public records are not maintained for 20 years.** This is prescribed by the Manual of Office Procedure in the Government of India.

The stipulation of making available 20-year old records on request **should be applicable only to those public records** which need to be preserved for such a period. In respect of all other records, the period of availability will be limited to the period for which they should be preserved under the record keeping procedures.

MECHANISM FOR REDRESSAL OF PUBLIC GRIEVANCES

Experience has shown that functionaries/departments tend to be defensive rather than proactive in redressing a grievance (or even in disclosing information) particularly when it directly pertains to their conduct (or misconduct). This underlines the need for an **independent forum to hear complaints** into acts of omission and commission, harassment, corruption etc. which emerge either through information collected under the Right to Information Act or otherwise. Such an independent body should hear the citizen and the public authority, come to an early conclusion about how the complaint can be best redressed.

A successful example of this mechanism is the **Public Grievances Commission** (PGC) set up by the **Delhi Government in 1997**. When the Delhi Right to Information Act came into force in 2001, the PGC was made the appellate authority to decide appeals under the Act. Because of this arrangement the PGC has become an effective –single window authority which facilitates access to information and when required provides a platform for redressing the citizen's grievances as well.

FRIVOLOUS AND VEXATIOUS REQUESTS

The highlight of the Act is that the information seeker **-shall not be required to give any reason for requesting the information** or any other personal detailsll. However certain instances in which the requests were patently frivolous or vexatious (or mala fide). There are also cases in which **public servants under a cloud** and facing grave disciplinary charges have repeatedly attempted to use the Act to

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intimidate, harass or at times even humiliate seniors with requests that have been vexatious. If safeguards are not provided in such situations, there could be three dangers.

First, **such frivolous or vexatious requests may overwhelm the system and defeat the very purpose of the Act.** Second, the even tenor of the administration may be paralysed, seriously undermining delivery of services. **Third**, if public servants facing serious charges successfully resort to such tactics directly or through proxies it may lead to breakdown of discipline, insubordination and disharmony in public institutions.

The South African Act reads as follows: The information officer of a public body may refuse a request for access to a record of the body, when

- a. the request is manifestly frivolous or vexatious: or
- b. the work involved in processing the request would substantially and unreasonably divert the resources of the public body

However all precautions must be taken to ensure that genuine requests for information are **not branded as ‘frivolous’ or ‘vexatious’**. Nor should information be denied casually on the ground that —the work involved in processing the request would substantially and unreasonably divert the resources of the public body. Therefore a **safeguard needs to be inserted in all such cases of refusal.**

Recommendations of 2nd ARC

- a. Section 7 may be amended to **insert sub section (10)** as follows: —The PIO may **refuse a request for information** if the request is manifestly frivolous or vexatious.
Provided that such a **refusal shall be communicated within 15 days** of receipt of application, with the prior approval of the appellate authority.
Provided further that **all such refusals shall stand transferred to CIC/SIC**, as the case may be and the CIC/SIC shall dispose the case as if it is an appeal under section 19(3) of the RTI Actl.
- b. It may be provided that information can be denied if the work involved in processing the request would substantially and unreasonably divert the resources of the public body.

APPLICATION OF THE ACT TO THE LEGISLATURE AND JUDICIARY

The definition of public authority under **Section 2(b)** includes any **authority**, or body, or institutions of self government, established or constituted by or under the Constitution, or any law made by Parliament or State Legislature, or by a notification or order of the appropriate government.

Section 2(e) therefore includes, the presiding officers of the Legislature at the Union and State levels as well as the Chief Justices of the Supreme Court and High Courts. The intent of the Parliament to make the law applicable to all public institutions including the Legislatures and Judiciary is clearly evident.

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In the Executive branch, traditionally secrecy has been the norm throughout the world, so also in India. The Legislatures and the Judiciary in India already operate within the public eye to a far greater extent than the Executive. **The proceedings of the Legislatures are open to public and media** and even telecast live in recent years. Similarly, all judicial processes are in the public domain and hence totally transparent. There is need to bring uniformity in the information recording systems, introduce standard forms and a better system of classification of cases.

Legislatures are storehouses of enormous amount of information on public policies and executive actions. However, there are two problems. **First** the information is disaggregated and not adequately synthesized. **Second**, while information is available to legislators, it is **very hard for citizens to access** it. In order to address these issues, all information with the legislatures needs to be indexed, catalogued and computerized, with online access to all citizens and supply on demand.

Apart from law making, **the Legislature exercises oversight function over the Executive branch**. Parliamentary (Legislative) questions, proceedings of various committees, follow up action on the reports of CAG, action taken reports submitted by the government are a **few vital mechanisms** for such legislative oversight. However, except through media reports, the citizens rarely have direct access to such information. This lacuna needs to be addressed by making all such information available to the public both online (electronic) and on demand (print).

Equally important is a **computerized tracking mechanism**, so that the legislators as well as the general public can trace the sequence of events and compliance by the executive agencies on matters like petitions, **CAG reports** and action taken on reports of enquiry commissions or **House committees**.

In most democracies, a major part of the legislative work is conducted in Committees. However, the work of legislative committees in India has generally been away from the public and media gaze. **The spirit of democracy** as well as the letter of law demands that all work of legislative committees, save on matters exempted from public gaze under the Act for reasons of state or privacy, should be thrown open to public and media policy.

As mentioned earlier the **judicial processes are transparent**. Even on the administrative front, the last decade has seen major strides made by judiciary in use of information technology for better court management and providing information to the litigants. In the Supreme Court of India and all High Courts, **fresh cases are filed only before the computerized filing counters**; cause lists are generated automatically by the computer and manual intervention has been eliminated resulting in generation of Cause List in time without any hurdles; **a software (COURTNIC)** provides Supreme Courts' pending case status information to litigants/advocates on any node of NICNET; The Supreme Court of India and all the High Courts and their Benches are fully computerised, and all these courts generate daily and weekly causelists from the computer servers installed by NIC.

A prerequisite for making the administrative processes in the district and the subordinate courts **totally transparent is their computerization**. This is necessitated because of the sheer volume of records handled. Furthermore, the

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records of these courts require scientific storage, indexing and cataloguing thereby **facilitating easy access.**

IMPACT OF RTI IN GOOD GOVERNANCE

- **Greater Transparency:** With a view to ensuring maximum disclosure of information regarding government rules, regulations and decisions, every public authority is mandated to maintain all its records. This has **increased the interaction** between the public authorities and the society.
- **Citizen-Centric Approach to Development:** Now Govt. has shifted to citizen centric approach of development. Now the Government is aware of this fact that the citizens can ask for any type of information and now the approach is concerned with the development of the country.
- **Democratization of information and knowledge:** Information and knowledge regarding the activities of the government is easily available now. The Govt. is easily assessable.
- **Reduction in Corruption:** Lack of transparency and accountability encourage the government officials to indulge in corrupt practices, which result in lower investments due to misuse or diversion of funds for private purposes. But RTI Act has reduced corruption to a great deal because Govt. is aware of the fact that now it can be asked for any type of information so it needs to be cautious.
- **Promotion of Citizen-Government Partnership:** The RTI Act provides a framework for promotion of citizen-government partnership in carrying out the programmes for welfare of the people.
- **Greater Accountability:** It means that the Govt. is required or expected to justify actions or decisions which it is taking. If anyone isn't getting the benefits which come under the Govt. policies then he/she can make use of RTI Act.

Various Govt. Schemes where it made great impact are:

National Rural Employment Guarantee Scheme
Sarva Shiksha Abhiyan (Education for all)
Mid-day Meal Scheme
Drinking Water Mission
Integrated Child Development Services
National Rural Health Mission
Bharat Nirman
Indira Awaas Yojna (Shelter for poor)

INDO-CHINA RELATIONS

The Indo-China relations have been characterized by a shift in their focus from geo-political & geo-strategic confrontations to geo-economic cooperation.

Both India and China are two of the world's oldest civilizations and have coexisted in peace for millennia. Trade relations via the **Silk Road** acted as economic contact between the two regions. However, since the early 1950s, their relationship has been characterized by border disputes resulting in military conflict (the Sino-Indian War of 1962). Both countries have in recent years successfully attempted to reignite diplomatic and economic ties and consequently, the two countries' relations have become closer. Today, China is India's largest trading partner.

LANDMARKS IN INDO-CHINA RELATIONS

On 15th August 1947, India became an independent federal and democratic republic, while the People's Liberation Army defeated the Kuomintang (Nationalist Party) of China in a civil war and established the People's Republic of China (PRC) on 1st October 1949. The timeline of the relations between the two is as following:

<p>India became the first non-socialist country to establish diplomatic relations with China.</p>	<p>1950</p>	
<p>Indian maps included the Aksai Chin region within the boundaries of India. But soon an Indian reconnaissance party discovered a Chinese road running through the Aksai Chin region of the Ladakh District of J&K.</p>	<p>1954</p>	<p>The two countries jointly expounded the Panchsheel (5 Principles of Peaceful Co-existence) along with 8-year agreement on Tibet that set forth the basis of their relationship.</p>
<p>Border disputes resulted in a border war between the two and their relations deteriorated during the rest of the 1960s. The PRC backed Pakistan in its 1965 war with India. Between 1967 & 1971, an all-weather road was built across territory claimed by India, linking PRC's Xinjiang Uyghur Autonomous Region with Pakistan</p>	<p>1959</p> <p>1962</p>	<p>PRC premier Zhou Enlai wrote to Nehru, rejecting Nehru's contention that the border was based on treaty & custom and pointing out that no government in China had accepted as legal the McMahon Line, which in the 1914 Shimla Convention defined the eastern section of the border between India and Tibet. China claimed 104,000 km² of territory over which India's maps showed clear sovereignty & demanded "rectification" of the entire border.</p>
	<p>1971</p>	<p>The PRC continued an active propaganda campaign against India and supplied ideological, financial, and</p>

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<p>A warming trend in relations was facilitated by Rajiv Gandhi's visit to China. India and China agreed to broaden bilateral ties in various areas, working to achieve a "fair and reasonable settlement while seeking a mutually acceptable solution" to the border dispute. Gandhi signed bilateral agreements on science & technology cooperation, civil aviation to establish direct air links, and on cultural exchanges. The two sides also agreed to hold annual diplomatic consultations between foreign ministers, and to set up a joint ministerial committee on economic and scientific cooperation & a joint working group on the boundary issue.</p> <p>Border trade resumed after a hiatus of 30 years in July, consulates reopened in Mumbai & Shanghai in December.</p> <p>Beijing announced that it not only favored a negotiated solution on Kashmir, but also opposed any form of independence for the region.</p> <p>The tide of suspicion began to turn after the Chinese adopted a position favorable to India on the Indo-Pakistani Kargil conflict</p>	<p>1988</p> <p>Early 1990s</p> <p>1992</p> <p>1993</p> <p>1994</p> <p>1998</p> <p>1999</p>	<p>other assistance to dissident groups, especially to tribes in northeastern India. The PRC sided with Pakistan in its 1971 war with India.</p> <p>Slow but steady improvement in relations with China. Top-level dialogue continued with the 1991 visit of PRC premier Li Peng to India and 1992 visit of Indian President R. Venkataraman to China. Progress was also made in reducing tensions on the border via confidence-building measures, including mutual troop reductions, regular meetings of local military commanders, and advance notification of military exercises.</p> <p>In June, the two sides agreed to open an additional border trading post. Prime Minister Narsimha Rao signed the border agreement & 3 other agreements during his visit to China.</p> <p>Relations hit a low point following India's nuclear tests in May. Defense Minister George Fernandes declared China as India's No. 1 threat, hinting that India developed nuclear weapons in defense against China's nuclear arsenal. In 1998, China was one of the strongest international critics of India's nuclear tests and entry into the nuclear club.</p>
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2000's

- Relations between the two stayed strained until the end of the decade. With Indian President **K. R. Narayanan's visit** to China, the year 2000 marked a gradual **re-engagement** of Indian & Chinese diplomacy. In 2002, Chinese Premier **Zhu Rongji** reciprocated by visiting India, with a focus on economic issues.
- 2003 ushered in a marked improvement in relations following Indian **PM Vajpayee's landmark visit** to China. China officially **recognized Indian sovereignty over Sikkim** as the two nations moved toward resolving their border disputes. India & China concluded a border trade protocol to add a border crossing between Sikkim &

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Tibet Autonomous Region. They appointed **Special Representatives** to explore from the political perspective of overall bilateral relationship in the framework of a boundary settlement.

- 2004 was a milestone in bilateral trade, **surpassing the \$10 billion** mark for the first time. In April 2005, Chinese Premier Wen Jiabao visited Bangalore and two sides issued a Joint Statement establishing a Strategic and Cooperative Partnership for Peace and Prosperity. It reflects the consensus that bilateral relations transcend bilateral issues and have acquired a global and strategic perspective. The agreement on **Political Parameters and Guiding Principles** signed during the visit represents successful conclusion of the first phase of the work of the Special Representatives on the boundary question.
- In 2006, China and India **re-opened Nathula**, an ancient trade route which was part of the Silk Road and was closed when the Sino-Indian War broke out in 1962. Chinese President Hu Jintao visited India in November 2006 and two sides issued a Joint Declaration containing a **10-pronged strategy** to intensify cooperation in all areas and give greater content to Indo-China Strategic & Cooperative Partnership.
- In 2007, China **denied the application for visa** from an IAS Officer in Arunachal Pradesh saying that, since Arunachal Pradesh is a territory of China, he would not need a visa to visit his own country.
- Congress President Sonia Gandhi visited China at the invitation of the General Secretary of the Communist Party of China (CPC) in 2007 and met with President Hu Jintao and Premier Wen Jiabao. She paid another visit to China in 2008 at the invitation of the CPC to witness the opening ceremony of the **Beijing Olympic Games**.
- Manmohan Singh visited China in January 2008. During the visit, he had extensive discussions with Premier Wen Jiabao and met with President Hu Jintao and NPC Chairman Wu Bangguo. A joint document entitled "**A Shared Vision for the 21st Century**" of the Republic of India and the People's Republic of China" was issued during the visit, outlining common positions on a number of international and some bilateral issues.

In 2010, External Affairs Minister visited Beijing for "comprehensive" talks with the top Chinese leadership covering issues like **issuance of stapled visas** by Beijing and **"illegal" construction in Pakistan-occupied Kashmir**. The visit was aimed at consolidation of the much improved Sino-Indian ties after last year's spat on Arunachal Pradesh.

In **June 2010, President of India** visited China to commemorate the 60th anniversary of establishment of diplomatic relations. Objective of her visit was to increase trust, friendship and understanding between India and China. Both the countries agreed to expand, deepen and diversify the **Strategic and Cooperative Partnership** between them. India acknowledges that the India - China relationship has gone beyond its purely bilateral aspect and also has a global dimension.

Three business to business MoUs were signed during the visit. Both also agreed to increase cooperation and coordination in **multilateral economic forums**

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including in the G-20 and the Doha Round of global trade negotiations. MoU was concluded between Indian Council of Cultural Relations and Fudan University, which will serve as an encouragement for the greater contacts through student exchanges and inter-University contacts.

She brought the attention of China on India's **aspirations for a permanent seat** in a reformed UN Security Council. President Hu Jintao and Premier Wen said they understand and supportive of India's desire. President Hu Jintao expressed China's support for India's candidature for a **non-permanent seat** in UN Security Council for 2011-2012.

The trust deficit between the two countries is high. The Chinese government accused New Delhi of –disregarding China's grave concerns by allowing the **Dalai Lama to visit Arunachal Pradesh** and said it was –strongly dissatisfied about the Tibetan leader's visit to the State, parts of which China has claims on. Earlier China had opposed PM Manmohan Singh's visit to Arunachal Pradesh. To create more trust, India and China signed an agreement to **set up a hotline** to open up direct communication between their Prime Ministers.

INDO-CHINA STRATEGIC ISSUES

China and India have been **strategic adversaries** since the Sino-Indian border war of 1962 that cemented India's alignment with the Soviet Union and China's strategic partnership with Pakistan. Existing strategic divergences include the border dispute, Sino-Pak nuclear & missile collaboration, China's quest for increasing influence in the Indian Ocean Region; and China's pursuance of an –encirclement strategy towards India to gain long-term strategic advantage in the region.

At the strategic level it appears that China wishes to maintain stability with India, reflected by **growing economic and trade linkages**, cooperation in the WTO and collaboration in the ongoing climate change debate. However, at the tactical level some recent moves on the part of China have been less than friendly.

The most significant agreement struck during **Hu's visit to India in 2006** was a Joint Statement to promote cooperation in the field of civilian nuclear energy. China did **not oppose India's case in NSG** for allowing the nations to export nuclear fuel & technology to India. However China still does not recognize **India's status as a nuclear weapons state**. It insists that India must abide by UNSC Resolution 1172 and give up its nuclear weapons and consequently sign the NPT. India had supported China's entry into the UN and expects China also to support India's bid for a permanent seat in the UNSC.

China hopes increased trade and investment ties with India will counter **strategic U.S.-India cooperation**, which Beijing perceives as an attempt to contain Chinese influence. Other stimulants to tension between India and China in the long run are likely to be pursuit by New Delhi of a full-fledged nuclear capability; its more assertive approach to foreign policy, particularly in East Asia; and the two countries to emerge as competitors for influence in Central Asia over region's oil reserves.

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The geo-political and geo-strategic advantages that could accrue from a **China-India strategic alliance** could be summarized as under:

- Geo-politically, a China-India strategic alliance could **alter the global balance of power** from a unilateral one to a multi-lateral one.
- Geo-strategically, a China-India strategic alliance would encompass the major portion of the heartland of Asia besides resting on the waters of the Pacific Ocean and Indian Ocean.
- Geo-strategically such an alliance would be a **formidable one in military terms**.
- A China-India strategic alliance could make a **Russia-India-China strategic triangle** a viable proposition. Presently, this triangle is unworkable because of differences in the China-India relations.
- Geo-economically it would integrate the world's **two fastest growing economies**.

Factors contributing to this **deficit of trust**, both past & current are as under:

- China's **aggressive foreign policies** and its propensity to use military force in boundary disputes.
- China's policy of asserting **-strategic frontiers** as opposed to national boundaries.
- China's **-swing strategy** in foreign policies & its strident opposition to India's nuclear weapons tests.
- China-India **clash of interests** in South Asia.
- China is holding back its support for India's candidature as a **UNSC Permanent Membership**.

China's demonstrated record in this respect appears to be focused on endangering or impinging on India's **national security interests in South Asia** by the following actions:

- **Pakistan's nuclear weapons** and missile arsenal was built up by direct Chinese assistance.
- China's **-Defence Cooperation Agreements** with Pakistan and Bangladesh, solely aimed at India. As a result both the countries get encouraged to have inimical attitudes towards India.
- China's **-strategic encirclement** of India by creation of military client states on all peripheries.
- China's support of Pakistan's stand on **Kashmir**, till recently.

India's record on the other hand in terms of respecting China's strategic sensitivities is glaringly more positive as the following would indicate:

- India has supported the Chinese policy of **-One China** principle.
- India respected China's stand on Tibet issue & **never supported anti-China activities** by Tibetan exiles.
- India has not, unlike China, supported any insurgent activities against China.
- India has not made any efforts towards **strategic encirclement of China**. India has asserted that its growing relationship with USA precludes being part of any China containment policies of USA.

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China has viewed with some suspicion India's willingness to join Australia, Japan and the US in a **-quadrilateral engagement** to promote shared common interests. China also wishes to reduce what it perceives as the steadily increasing influence of the US over New Delhi.

INDO-CHINA BOUNDARY ISSUE

The boundary issue comes foremost in the list of problem areas. India's doubts emanate from China's aggressive policies as **Mao's description of China's 'palm'** (Tibet) and **'five fingers'** (Nepal, Sikkim, Bhutan, NEFA and Ladakh). China also published maps showing India's Assam, even Andamans, as **'historically'** parts of China. Chinese claims are based on its historical stand- all its borders, including with India, are as defined during the **Qing dynasty** period which ended in 1912.

The root of the border problem with India lies in Beijing's position that a large chunk of its territory, especially the 90,000 Sq km area in the Eastern sector, were illegally taken away by the British, after the 1914 Simla Convention. This has provided the rationale for Beijing in **rejecting the McMahon line**, a product of the Convention and in claiming the entire Arunachal Pradesh, a state of India as part of Chinese territory, called by it as **'Southern Tibet'**. On the other hand, for India, McMahon line remains the **'de facto'** border with China.

The Sino-Indian border problem remains complicated with the Chinese claiming recently the 2.1 Sq km **'finger area'** of **Sikkim**, the status of which as an Indian state has already been recognized by Beijing **'de facto'**. China has also put **claim over Tawang** in Arunachal Pradesh, due to the China's fears that Buddhist monasteries have been centers of Tibetan resistance to the Chinese authority. China is illegally occupying 43000 sq km of Jammu and Kashmir.

Indian Home Ministry's recent report said that the **area along the Line of Actual Control** with China has **-shrunk** over a period of time, and **India has lost a -substantial amount of land** in the last two decades. On the current scenario, India's concerns arise from various factors- the reported **Chinese intrusions** into the Indian border, the adverse reaction of Beijing to the visit of the Indian PM Manmohan Singh to Arunachal Pradesh, China's bid to **stop the loans for Arunachal Pradesh** from the Asian Development Bank, Chinese air force intruded in the Line of Actual Control and dropped food packets in the Indian side and strong Chinese criticisms of India's dispatch of additional troops to and positioning of advanced fighter aircraft in its Eastern border.

Sino-Indian border talks have undergone **16th round of talks** between two Special representatives - Shivshankar Menon, National Security Adviser and Yang Jiechi, State Councillor, which took place in Beijing in **June 2013**. Though settlement achieved more or less in middle sector; western & eastern sectors are still troublesome. These have **not led to any tangible results** in finalizing a **'frame work'** for a boundary settlement in accordance with the Agreement on Political Parameters, reached in 2005. While Beijing's stand is to approach the border issue in the spirit of **'mutual understanding and mutual accommodation'**, India wants **'ground realities'** to be taken into account. There are **3 Stages of Boundary Talks**:

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1. **First stage** concluded in 2005, with both sides agreeing to find a political solution based on political parameters and guiding principles.
2. **Second stage** exploring a framework for final package settlement of all disputed sectors.
3. **Third stage** will set in motion the process for the demarcating and delineating the boundary.

INDO-CHINA AND TIBET ISSUE

Mao Zedong, the Chairman of the CPC viewed Tibet as an integral part of the China and saw Indian concern over Tibet as a manifestation of the Indian Government's **interference in its internal affairs**. Pt. Nehru informed Chinese leaders that India did not have neither political nor territorial ambitions, nor did it seek special privileges in Tibet, but that traditional trading rights must continue. The PRC reasserted control over Tibet and ended Lamaism (Tibetan Buddhism) in 1950. With Indian support, Tibetan delegates signed an agreement in May 1951 recognizing PRC sovereignty but guaranteeing that the existing **political and social system of Tibet** would continue.

India accepts Tibet Autonomous Region as an **integral part of China** and standing firmly **against any anti-China activity** of the Dalai Lama from Indian soil. However, China appears to be having reservations on India's motives with respect to the Dalai Lama. Chinese official viewed his visit to Arunachal Pradesh in November 2009, **further exposes the anti-China and separatist nature of the Dalai clique** and that such visits cast a new shadow on Sino-Indian relations. This firmly points to Beijing's approach of linking the Dalai Lama factor with the Sino-Indian border question.

China's fears need to be understood in the context of **March 2008 unrest in Tibet**, posing a challenge to China's sovereignty. Also, the question as to why India is tolerating the Tibetan Government in Exile on its soil, seems to be bothering China. Premier Wen Jiabao's description of the Tibet issue as a **'sensitive'** one in relations with India, assumes significance. In 2010, India has decided **shoring up its military presence** in the northern borders and upgrading infrastructure along the border with China in the light of Beijing's rapid infrastructure development and its upgraded military force projection in the Tibet Autonomous Region and Xinjiang province.

SINO-INDIAN DEFENCE ISSUES

India has shown concern over China's increased defense spending. The Indian Defence Ministry's annual report says **China's military modernization** needs to be "monitored carefully" for implications on India's defense and security. China spends around \$70 billion on defence; India's spending is at \$30 billion annually.

Beijing is creating a **"string of pearls"** surrounding India by developing **strategic port facilities** in Sittwe (Burma), Chittagong (Bangladesh), and Gwadar (Pakistan) to protect sea lanes and ensure uninterrupted energy supplies. India is wary of China's efforts to engage its South Asian neighbors in military and economic matters. India plans to upgrade weapons and equipment stationed at its bases on the Andaman and Nicobar Island chains in the eastern Indian Ocean to bolster its defenses against Chinese military base in Myanmar's nearby Coco Islands.

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Simultaneously, bilateral defence interaction between both has been growing. Peace and **tranquility along the Line of Actual Control (LAC)** in the border areas is being largely maintained by both sides in accordance with the agreements of 1993 and 1996. In recent times, both countries have shown pragmatism on cooperation in defence sector.

- In 2010, Indian Defence Secretary met China Army deputy chief at the **third Annual Defence Dialogue** in Beijing. It is the first time that an Indian Defence Ministry official with the rank of a permanent secretary has traveled to China for defense cooperation talks. Discussions included **"very sensitive" issues** such as India's concern over the Chinese military buildup, particularly in naval assets and a boundary dispute.
- The **First Joint Training Exercise** between the Indian Army and the PLA, 'HAND IN HAND' was conducted at Kunming, China in 2007. **2nd Joint Training Exercise** was conducted at Belgaum (India) in 2008. **2nd Defence Dialogue** between India and China was held in New Delhi in 2008.
- India and China signed a memorandum in 2006 to conduct **joint military exercises** in the fields of search & rescue, anti-piracy, counterterrorism and other areas of mutual interest. India and China held **joint anti-terror** exercises in October 2007 in the mountainous Chengdu Military region of the northeast.
- India signed a Military Pact with China to expand military cooperation between two Asian giants. This accord would **institutionalize expanded mutual training program**, more exchange visits by armed forces personnel, joint exercises between defence forces of both countries and develop a strategic and cooperative partnership for peace and prosperity between India and China.

SINO-INDIAN TRADE/ ECONOMIC RELATIONS

Among the most encouraging recent developments in Sino-Indian ties is the rapid increase in bilateral trade. India and China resumed trade officially in 1978. In 1984 India & China signed a Trade Agreement, providing for –Most Favored Nation Treatment. **Border trade resumed in 1992** and consulates were reopened in Bombay and Shanghai. In 1994, the two countries signed the agreements on avoiding double taxation.

The India China trade relations have been further developed from 2006, with the initiation of the border trade between Tibet, an autonomous region of China, and India through **Nathu La Pass**, reopened after more than 40 years. The leaders of both the countries have decided to enhance the **bilateral trade to \$100 billion by 2015**. China is India's largest trade partner, while India is China's one of the tenth largest partner.

Seeing the whopping growth in Sino-Indian trade, China outlined a **5-point agenda**, including reducing trade barriers and enhancing multilateral cooperation to boost bilateral trade. There are **several institutional mechanisms** for India's economic and commercial engagement with China. India-China **Joint Economic Group** on Economic Relations and Trade, Science and Technology (JEG) is a ministerial-level dialogue mechanism. A **Joint Study Group (JSG)** was set up to examine the potential

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complementarities between the two countries in expanded trade and economic cooperation.

However, there is a **large and growing trade deficit** that India was experiencing in its bilateral trade with China as pointed out by the meeting of Commerce and industry minister Anand Sharma with the Premier in Beijing. India's annual exports to China stand at about \$11 billion, while China exports goods worth \$27 billion to India. India and China have agreed to work towards bridging the fast-widening trade gap between the two countries. The two countries did, however, reach an understanding on the contentious issue of **employment visas for Chinese workers**, with India agreeing to raise the quota for foreign visas for power and steel projects.

In a **Joint Economic Group** meeting with his Chinese counterpart Chen Deming, Mr. Sharma pressed for many issues including **Greater import of IT and ITeS by China** from India, Removal of tariff and non-tariff barriers restricting import of power plant equipment, and Greater access of Chinese market for Indian companies. **India-China MOU** on expansion of trade & economic cooperation was signed which provides for the Chinese side to import as much of its requirement of value added goods from India as possible. Chinese Premier Wen Jiabao has assured India that both countries would work together to ensure a **more balanced trade** between the two countries.

China is already India's number one **trading partner**. From China's side, India already is one of its top ten trading partners and is growing much faster than the other nine. Since it is almost certain that, by **2050**, China and India will be the two largest economies in the world, it is inevitable that bilateral trade between them will become the most important economic relationship in the world.

INDIA-CHINA-PAKISTAN TRIANGLE

Historically, China has been **Pakistan's strategic and military ally** for the past 50 years. China has two purposes behind its assistance to Pakistan. First, it takes Pakistan as a secure friend and ally in the Indian Ocean and second, they share a **common interest to contain India**. Pakistan supports China's candidature for China's entry into SAARC; India is against the prospect of Chinese membership. New Delhi views Beijing's links with Islamabad as being part of a **wider strategy** aimed at keeping it off balance strategically. China's military aid has considerably strengthened Pakistan's war waging potential and enabled it to launch and sustain a proxy war in J&K and in other parts of India.

China signed a free trade agreement with Pakistan and a deal to co-produce Chinese fighter jets. China is providing additional nuclear power reactors to Islamabad. Besides this, **Shaksgam Valley** was illegally ceded by Pakistan to China in 1963. **Karakoram highway** was built close to this tract by China. China gave the designs for a **nuclear bomb** to Pakistan in 1984 and then helped them build it. China has given nuclear warhead designs and missile technology as well as fully assembled M-9 and M-11 missiles to Pakistan. China and Pakistan are also known to have a **joint weapons and equipment development** programme that includes Al Khalid tanks and FC-1/JF-17 fighter aircraft. They also helped in the construction of the **Gwadar port**. Recently proposed **China-Pakistan nuclear deal** could spell trouble for India's own membership of the Nuclear Suppliers Group.

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However, cracks have begun to appear in previously **monolithic Sino-Pakistani relations** that result partly from the improved climate in Sino-Indian relations. The watershed was the visit by Chinese **President Jiang Zemin to New Delhi in 1996** when he made it clear that Beijing does not take sides on the issue of Kashmir. Nor did China take the side of its ally during the Kargil crisis.

Expulsion of a number of Pakistani students from the International Islamic University of Xinjiang reinforces these repulsions. There are evidence of groups like the Lashkar-e-Taiba and the Hizb-ul Mujahideen training and supporting the **separatist Uighur movement** posing a threat in China too bringing it closer to India on these concerns. The two countries share similar **concerns about the rise of the Taliban**. They worry that its emergence as the dominant power in Afghanistan fuels the flames of their own separatist movements in Kashmir and Xinjiang because of the Pakistani-Taliban link.

In the new millennium, the triangular relationship between India, Pakistan, and China will remain an **important driver of regional security**. However, the inter-relationship between the three nations will be far more fluid than it was in the past. China and India are more or less satisfied with the current arrangement. Pakistan, however, is not satisfied with the current arrangement.

INDIA-CHINA-BANGLADESH TRIANGLE

China's influence in South Asia has significantly grown over the years, and in particular Bangladeshi-Chinese relations are now **robust and very comprehensive**. This is in contrast to Bangladeshi-Indian relations, which are extremely uneven dictated by the political scenario of the country as to which political party is in power. China has signed a **defence cooperation** agreement with Bangladesh to modernize the latter's military. It is also seeking to modernize **Chittagong port**. Bangladesh is also supporting China's candidature for SAARC. But India is against the prospect of Chinese membership. Closer Sino-Indian relations can be foundation stone for development of India-China-Bangladesh triangle.

INDIA-CHINA-BHUTAN TRIANGLE

In view of the long-standing political disputes and border confrontations between India and China, Bhutan has long been part of India's strategic defense plan. When the **Chinese communists took over Tibet in 1951**, Bhutan braced itself against a renewed external threat with a modernization program and a new defense posture. China's disregard of McMahon Line constituted a **potential threat to Bhutan's security** too. Bhutan had already protested to the Chinese Government through India.

In his **first visit to Bhutan in 1958**, Pt. Nehru reiterated India's wish that Bhutan remain an independent country. He declared in the Indian Parliament in November 1959 that any aggression against Bhutan would be regarded as an aggression against India. A de-facto alliance developed between Bhutan and India by 1960. In times of crisis between India & China or between Bhutan & China, India was quick to assure Bhutan of military assistance.

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The boundary question has yet to be settled between Bhutan and China. As for India, a **stable, democratizing, friendly and confident Bhutan** is the best security asset in the turbulent Himalayas. Bhutan is the only country in South Asia that does not have diplomatic relations with China. India denies that it is preventing Bhutan from having regular state-to-state relations with China

INDIA-CHINA-MYANMAR TRIANGLE

Myanmar is viewed as a **critical area of interest** to China and India. While China has developed close political, military & economic relations with Myanmar, India is following suite. India dominates Myanmar's western borders, just as China dominates north-eastern. As a littoral of the Indian Ocean with a long coastline on eastern arch of the Bay of Bengal, Myanmar's strategic value further increases. Myanmar provides China the **shortest land and sea access to South Asia**, just as it provides convenient external land & sea communication options to India's landlocked northeastern states. Myanmar's ocean boundaries are barely **30 km from the Andaman Islands** increasing its maritime security threat.

Most of Myanmar's **mountain ranges and major river systems run north-south**. This facilitates easier movement from the Chinese border and makes construction of road and movement from India's east to Myanmar difficult. The Chinese have used this favourable terrain configuration to build **road from the Chinese border to Mandalay** in the heart of Myanmar and onward to the coast. China's strategic objective appears to be to gain direct access to Bay of Bengal and Andaman Sea through Myanmar bypassing the narrow Strait of Malacca.

India's northeastern states bordering Myanmar are not as well developed as Yunnan province of China bordering Myanmar in the northeast. China has found it useful to link the **development of Yunnan region jointly with Myanmar** and Laos. Thus the two-way border trade and commerce is qualitatively and quantitatively better with China than with India. The Chinese have used the geophysical advantage they enjoy to gain access to Myanmar's **mineral and natural gas resources**.

India is slowly becoming a **regular supplier of arms to Myanmar**, joining the ranks of China, Russia and Ukraine. China has stepped its influence through economic, military and development assistance. Till recently almost 80% of Myanmar's defence equipment was of Chinese origin. It also has established four electronic listening posts in Myanmar to monitor Indian and Thai communication traffic. China has proved time and again itself as a **valuable ally internationally**, whenever efforts were made in the UN Security Council to discuss Myanmar. In fact, China is perhaps the single most important power with influence over the military regime.

INDIA-CHINA-NEPAL TRIANGLE

Nepal's location as a **buffer state** between India & China too has increased its importance. The annexation of Tibet by China further increased this importance. India's role of a better ally makes Nepal at times to be friendly with China. Knowing fully well India's pre-eminent position in the South Asian region, Nepal has tried to assert its independence and identity. India, on the other hand, keeping in view its own security interests, is trying to give more aid and pursue a policy of friendship.

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Maoists claimed the **US was "encircling" China** through India and suggested that Nepal should adopt a policy of **equi-distance** with New Delhi and Beijing taking into consideration the geopolitical situation. Nepal made use of the Sino-Indian differences and followed a policy of distancing from India to gain more aids and benefits from the global and regional powers.

RUSSIA-INDIA-CHINA TRIANGLE

Yevgeny Primakov of Russia was the first person to talk about a "**strategic triangle**" involving Russia, China & India. China & Russia are co-operating on establishing railway links and on the issue concerning the oil pipeline through Central Asia, connecting the Caspian Sea with the Middle East and Europe. Russia has also shown keen interest in the pipeline issue involving India.

Already China and Russia have **resolved their age-old border disputes** amicably. Sino-Russian trade is quite robust and is increasing steadily. With the historic India-Russia ties based on solid foundation, the emergence of warmer ties with China means a lot for this region. Russia's inability to impede the **eastward expansion of NATO** and its frustration with NATO's unilateral military action in Kosovo has forced it to seek closer strategic understanding with China and India. Russia is an all weather friend of India and a close ally. Russia-India-China Triangle can be the building block for tilting the power balance towards Asia. However the possibility of the triangle is contingent upon the relations between India and China.

INDIA-CHINA-SRI LANKA TRIANGLE

China is supporting Colombo and, in the process, authenticating India's fear about Beijing extending its influence in the Indian Ocean. The Chinese are courting Sri Lanka because of its location in the Indian Ocean- a **crucial international passageway** for trade and oil. China is selling huge quantities of arms to Colombo and boosting aid almost 5 times to \$1 billion. In fact, China is now the **largest donor** to Lanka. Its Jian-7 fighter jets, anti-aircraft guns and JY-11 3D air surveillance radars played a key role in the Sri Lankan military successes. Beijing has also roped in its ally Pakistan for providing military assistance to Lanka.

China is currently building a billion-dollar port in the country's southeast, **Hambantota**, and this is the latest 'pearl' in China's strategy to control vital sea-lanes of communication between the Indian and Pacific Oceans by assembling a **'string of pearls'** in the form of listening posts, special naval arrangements and access to ports. China is also **aiding Sri Lanka in several other projects** like the Katunayake Expressway, extension of the railway line from Matara to Kataragama, the Norochcholai Coal Power Project, and building the Centre for the Performing Arts in Colombo. **India's stand against Sri Lanka on Tamilians issue** on international forums has been the contentious issue between India and Sri Lanka and pushing Sri Lanka towards China and Pakistan. Adopting pragmatic approach towards Sri Lanka is necessary for making viable India-China-Sri Lanka Triangle.

INDIA-CHINA-USA TRIANGLE

The **deep suspicions between USA & China** have allowed India to occupy advantageous middle position in the China-India-US-Triangle. China has long viewed the Washington-New Delhi relationship with some degree of suspicion, particularly during the years of the Bush administration, when relations between India and the U.S. deepened and with the U.S. widely being seen as supporting **India as a counterweight to China**. China's opposition to the **Indo-U.S. civilian nuclear agreement** underscored its unease at the deepening ties between Washington and New Delhi. China's rhetoric towards India's relations with the U.S. has, however, somewhat cooled following President Barack Obama's election and Washington's renewed engagement with Beijing.

During **Obama's visit to Beijing** in 2009, the two countries pledged in a joint statement to work together to promote peace and stability in South Asia, a reference which angered some Indian officials, seen as a sign of the U.S. encouraging China to play a greater role in South Asia. Latest dissonance in the China-US ties over the **American arms sales to Taiwan** and the status of Dalai Lama is viewed seriously in Southeast Asia. The proceedings of the **USA-India Strategic Dialogue**, held in Washington in **2010** were closely followed in Beijing. However India and China have shown unity in many global issues including climate & WTO which U.S. blames what it sees as intransigence on the part of India and China.

INDIA-CHINA COMPARATIVE RELATIONS IN REGIONAL GROUPS

BIMSTEC: BIMSTEC not only balances India's engagement with Southeast and South Asia but it also counters China's growing influence among ASEAN members, in particular Myanmar. Through BIMSTEC, India engages Bangladesh, Myanmar, Sri Lanka & Thailand to enhance cooperation in trade & investment, communication & transport, tourism, energy projects and fisheries. However China's dominant role individually in these countries has over-shadowed the importance of BIMSTEC as a group.

ASEAN: With the withdrawal of US troops from strategic locations in the region following the collapse of Soviet Union, the Southeast Asian countries deemed it appropriate to guard against Chinese influence by setting up **vital sea-lanes of communications** such as the Taiwan, Malacca, Sunda and Lombok Straits. Accordingly, ASEAN countries justifiably perceive India, with the largest Naval forces in Indian Ocean & nuclear capabilities, a strategic partner to balance China's growing power in the region.

ASEAN looks at **India's security needs** more as a factor emanating from the compulsions of the geopolitical position that India holds, rather than being a derivative of any hegemonic designs on India's part. The institutionalization of these relations came with the First ASEAN-India Summit in 2002 and was perceived as the success of **India's Look East Policy**. It was considered an acknowledgement of India's emergence as a key player in the Asia Pacific Region. The increasing importance of **maritime trade and energy security** for India has made it imperative to ensure the safety of Sea Lanes of Communication.

EAST ASIA SUMMIT: China perceives India's –Look East policy as part of a wider –contain China strategy unveiled by the perceived **Washington-Tokyo-New Delhi**

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axis. Wary of India, Australia and Japan, China proposed that the existing ASEAN plus 3 (China, South Korea and Japan) and not the new 16-member East Asia Summit, control the formation of any EAC (**East Asian Community**) building exercise. However, nearly all Southeast Asian countries supported India's participation in the EAS, seeing it as a useful counterweight to China's growing power.

G-20: China & India are working closely within G20, proposing **reforms to international financial system** and jointly promoting the building of a fair & reasonable international economic & financial order. The two countries' strengthened coordination ensured positive results in both the London and Pittsburg G20 summits, greatly elevated the status, function and voice of emerging powers.

SAARC: SAARC is considered by China to be key and part of its own back yard. There is some resentment from other members of the SAARC that India has had too much say and that China should be included to provide more financial and political balance. Beijing has indicated that it may assist India's entry into the SCO in return for SAARC membership. However, India has apparently blocked an attempt by China to obtain membership in SAARC. China currently has **observer status**.

SCO: Russia has long favored granting full SCO membership to India, which received observer status in 2005 along with Iran & Pakistan. China has so far opposed India's membership, and has favoured its all weathered ally Pakistan's membership instead. Within SCO, China has overtaken Russia as the **biggest donor for and investor in Central Asia**. Russia cannot compete with China's financial might alone and this is one reason it wants India to become a full SCO member.

STAND OF INDIA AND CHINA ON GLOBAL ISSUES

TERRORISM: The first India-China Joint Anti-Terror military exercise ("**Hand-in-Hand, 2007**") held at Kunming in the Yunnan province of China. In an apparent reference to Pakistan-based terror outfit Jamaat-ud Dawa, blamed for Mumbai attacks, India, Russia and China pressed for "strict observance" of sanctions imposed by the UNSC against persons & entities by the countries concerned. India & China decided to work collectively to tackle terrorism.

UN REFORMS: 3 permanent members of the UNSC- **Britain, Russia and France** have supported India's bid for the coveted permanent seat in an expanded UN Security Council. The US has supported Japan's claim, but has yet to come out unambiguously in support of India's candidacy. China has expressed support for India's bigger role on the international stage, but has kept its options open.

CLIMATE CHANGE: Climate change has become a facet of China-India cooperation. Both have agreed to **coordinate their positions** before every major international gathering on climate change. China assured India that China shall not strike any deal with USA that could undermine India's negotiating position at climate talks. Both have taken a united stand at the **Copenhagen climate conference**. Both reiterated their opposition to US demands for the framework established in the **Kyoto Protocol** to be scrapped and favored Kyoto's recognition that industrialized and developing nations should be treated differently.

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ENERGY: A very important dimension of the evolving Sino-Indian relationship is based on the energy requirements of their industrial expansion and their readiness to proactively secure them by **investing in the oilfields abroad** - in Africa, the Middle East and Central Asia. Though these ventures entail competition, but a degree of cooperation too is visible, as they are increasingly confronting bigger players in the global oil market. This cooperation was sealed in Beijing in **2006** during the visit of Indian Petroleum & Natural Gas Minister, who signed an agreement which envisages ONGC Videsh Ltd (OVL) and the China National Petroleum Corporation (CNPC) placing **joint bids** for promising projects elsewhere.

Broadly speaking, India-China ties at government levels remain stable at this juncture. New Delhi and Beijing have established a **‘Strategic and cooperative partnership for peace and prosperity’** and signed a document on **‘Shared vision for the 21st century’**, signifying that the Sino-Indian ties have gone beyond the bilateral context and acquired a global character. The two sides now aim at building **‘a relationship of friendship and trust, based on equality, in which each is sensitive to the concerns and aspirations of the other’**.

TRADE DEFICIT WITH CHINA WIDENS TO \$14 B

India's trade deficit with China widened to **\$14 billion** in seven months of 2013, as China's overall trade surplus soared to the highest in recent times. The trade deficit with China is now **likely to exceed last year's record \$20 billion figure**.

Reasons

1. The import figures were likely a result of **falling iron ore exports** as a result of the ban in Karnataka, coupled with little progress in addressing long-persisting **difficulties in diversifying exports** in information technology, pharmaceuticals and engineering sectors, which Indian officials have been pushing for in recent months.
2. **China's imports of iron ore**, India's biggest export to the country, **rose 6.8%** overall in July, but largely on the back of orders from Brazil and Australia.
3. China's overall trade surplus in July reached \$31.5 billion, the highest in two-and-a-half years, as a result of a **rise in imports from the European Union**.
4. Analysts also say that **the debt crisis in the West** would greatly impact Chinese growth. Exports to the EU grew 22%.

CHINA IN THE FOREFRONT IN BUILDING POWER PROJECTS IN POK

Over the issue of building hydel power projects, China is taking a lead role in their construction in the Pok. This **increasing presence of Chinese companies in PoK** comes amid the protest lodged by New Delhi against the **direct involvement** of China in **rebuilding the Karakoram highway** in Gilgit-Baltistan, the part of erstwhile Jammu and Kashmir State and annexed by Pakistan.

1. With a **huge potential to generate power** mainly from two rivers — **Jhelum and Neelum** — flowing from Jammu and Kashmir, the GOP has paved the way for the Chinese companies for taking up work for large-scale power generation.
2. Contracts for two more upcoming projects have been awarded to China. They are the **Kohala-Jhelum project** of 1100 MW and **Karot-Jhelum project** of 720 MW.

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3. Public Private Investment Board (PPIB) is currently constructing nine hydel projects in PoK, capable of generating **2,700MW with a total investment of \$6436 m.**
4. China is also learnt to be involved in **laying of a number of roads in PoK.** Sources said it is playing a significant role in the construction of roads such as Neelam Valley Road — from Muzaffarabad to Athmaqam — and the Tariqabad Bypass (Eastern) and Naluchi Bypass (Western).

CHINESE INTRUSION IN DAULAT BEG SECTOR

A **battalion of Chinese troops** estimated of about 50 personnel and accompanied by vehicles and dogs had intruded 19 km inside the Indian Territory across the Line of Actual Control (LAC) in Daulat Beg Oldi sector **in April 2013** and set up five tents. The Indian troops had also **established tented posts** facing the Chinese forces at a distance of 300 metres. The troops of the two sides **held four flag meetings.** However, there was no positive outcome from these meetings, which went hand-in-hand with high level diplomatic efforts to break the impasse.

An **agreement was reached in May 2013 for both sides** to pull back their troops simultaneously from the face off point. However, it was not clear whether the Chinese would withdraw all the way back across the LAC to the position that obtained in April as was demanded by India, which pressed for restoration of status quo ante. The face off in Ladakh had **cast a shadow** over the visit of External Affairs Minister Salman Khurshid to China in May to prepare the ground for the new Chinese Prime Minister Li Keqiang's visit to India. India would have liked a "much better response" from China, he had said and emphasised that it wanted reversal of the "adverse incident" in Ladakh and return to **the status quo in Depsang Valley** where the Chinese troops have intruded.

The Chinese side had earlier **refused to budge** from the territory occupied by them and insisted that Indian forces must first pull back its troops in the DBO sector. The Indian side argued that **any pull back had to be simultaneous** and that the Chinese should vacate their intrusion. The two sides had then agreed to continue their dialogue. The Chinese side also reiterated their earlier stand that India should **dismantle bunkers constructed along the LAC in Phuktsay and Chumar** areas to which the Indian side contended that similar activities were being carried out on the Chinese side. Chinese officials maintained that the activities on their side was more of a developmental work and that **India should stop pushing its grazers in Chumar division, south east of Ladakh.**

In **April, Chinese troops had intruded nearly 27 km** deep into the Indian Territory but an early detection and aggressive patrolling by the security personnel posted in the sector managed to pull them back to the present position near the old patrol base in the DBO sector, which is still 19 km from the LAC. Under agreement in May, India and China decided to **pull back their troops** from the stand off point at Daulat Beg Oldi sector in Ladakh, where the PLA incursion had happened in April 2013.

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CHINESE CHOPPERS VIOLATED INDIAN AIRSPACE

Two Chinese Army helicopters **violated Indian airspace in July 2013** in the **Chumar sector** in Ladakh; days after their soldiers intruded and took away an Indian surveillance camera. The PLA choppers violated Indian airspace in the Chumar sector and returned after flying for some time there. The incident happened soon after **Defence Minister A.K. Antony's visit to China** when the two sides discussed measures to enhance peace and tranquility along the Line of Actual Control. Chumar has seen a **number of incursion incidents** in the recent past including an incident in June 2013 where Chinese troops took away an Army surveillance camera meant for keeping an eye on the PLA troops patrolling there.

Chumar is the same area where **Chinese troops triggered tensions in April** smashing some bunkers besides cutting wires of cameras installed at the border post. Chumar has always been an **area of discomfort for the Chinese troops as this** is the only area along the China-India border where they do not have any direct access to the LAC. India and China have been working towards **signing a border pact to maintain peace and tranquility along the LAC** where a number of incursion incidents have been observed in the recent few months. More than a couple of years ago, Chinese troops had entered the Indian Territory using their Mi-17 medium lift choppers and **dropped food and other supplies in Ladakh.**

VISIT OF CHINESE PREMIER LI KEQIANG TO INDIA IN MAY 2013

Li Keqiang, Premier of China, paid a State visit to India in May, 2013. Premier Li held talks with Prime Minister Dr. Manmohan Singh and called on Mr. Pranab Mukherjee, President of India. The leaders of the two countries had an **in-depth exchange of views** on bilateral relations and regional and international issues of mutual interest in a sincere and cordial atmosphere and reached broad consensus. The two sides **reviewed with satisfaction the comprehensive** and rapid progress of India-China relations in the 21st century. Over the years, India and China have evolved **an effective model of friendly coexistence and common development**, which can be an example for relations between big, neighboring countries.

The two sides reaffirmed their commitment to abide by the principles and consensus arrived at by leaders of the two countries over the years concerning the development of India - China relations, and to further **consolidate the Strategic and Cooperative Partnership for Peace and Prosperity** on the basis of the Five Principles of Peaceful Coexistence and mutual sensitivities for each other concerns and aspirations. The two sides will not allow their territories to be used for activities against the other. The two sides are committed to **taking a positive view of and support each other's friendship with other countries.**

The two sides attached great importance to the active role of the **Strategic Economic Dialogue** in promoting macro-economic policy coordination and pragmatic cooperation in various fields between the two countries and expressed satisfaction over the progress made in the meetings of the Dialogue. They agreed to **further strengthen cooperation in the areas of energy and environmental conservation**, new and renewable energy and high-technology. The two sides agreed to

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enhance cooperation in the railway sector including heavy haulage and station development.

The two sides agreed to continue pushing forward the Doha Development Round, consider the potential for a **bilateral Regional Trade Arrangement** and review the state of negotiations on the **Regional Comprehensive Economic Partnership (RCEP)**. The **first meeting of the India - China CEO's Forum** was held during Premier Li Keqiang's visit to India. While striving to realize the trade turnover target of **US\$ 100 billion by 2015**, the two countries agreed to take measures to address the issue of the trade imbalance. These include **cooperation on pharmaceutical supervision** including registration, stronger links between Chinese enterprises and Indian IT industry, and completion of phyto-sanitary negotiations on agro-products.

The Indian side **welcomed Chinese enterprises to invest in India** and participate in India's infrastructure development. Project contracting cooperation between the businesses of the two countries would be enhanced. India and China decided to mark the **60th anniversary of the Five Principles of Peaceful Coexistence** (Panchsheel) in 2014 by designating it as the **"Year of Friendly Exchanges"**. The two sides noted that youth exchanges play an important role in increasing mutual understanding and decided to continue with the annual exchange of 100 youth. In accordance with the **Agreement to Facilitate Cooperation and Linkages** between Indian and Chinese Cities and States/Provinces, the two sides agreed to encourage their cities/provinces to establish twinning relationships.

To promote trade, personnel movement and connectivity across the border, the two sides agreed to consider **strengthening border trade through Nathu La Pass**. The Chinese side shall provide greater facilitation to Indian pilgrims for the **Gang Renpoche and Mapam Yun Tso Pilgrimage** (Kailash Manasarovar Yatra). The Indian side conveyed appreciation to the Chinese side for the improvement of facilities for the Indian pilgrims. The two sides appreciated the progress made in promoting cooperation under the **BCIM (Bangladesh, China, India, Myanmar) Regional Forum**. Encouraged by the successful BCIM Car Rally of February 2013 between Kolkata and Kunming; the two sides agreed to consult the other parties with a view to establishing a **Joint Study Group on strengthening connectivity in the BCIM** region for closer economic, trade, and people-to-people linkages and initiating the development of a BCIM Economic Corridor.

The two sides noted that **enhanced interaction in the military field** was conducive to building mutual trust and confidence. Both sides agreed to hold the next round of joint training exercises later this year. Both sides also decided to **increase exchanges between the Army, Navy and Air Force of the two countries**. The two sides noted with satisfaction that the meetings of the **India - China Working Mechanism for Consultation and Coordination on Border Affairs** held till date has been fruitful. Noting their **convergence on global issues**, both sides agreed to enhance their cooperation in multilateral forums including United Nations. China attaches great importance to India's status in international affairs as a large developing country, understands and **supports India's aspiration to play a greater role in the United Nations including in the Security Council**.

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As developing countries, India and China **share common interest on several issues of global importance** like climate change, Doha Development Round of WTO, energy and food security, reform of the international financial institutions and global governance. This is reflected in the close cooperation and coordination between the two sides within the BRICS and G-20 frameworks. The two sides agreed to **enhance coordination in the follow up process of the UN Conference on Sustainable Development** and in discussions on the post 2015 development agenda as well as international negotiations on climate change. Both sides reiterated their **resolute opposition to terrorism** in all its forms and manifestations and committed themselves to cooperate on counter-terrorism. They also emphasized the need to implement all relevant UN resolutions, in particular UNSC resolutions 1267, 1373, 1540 and 1624.

Documents Signed During the Visit

1. **Protocol on Indian Official Pilgrimage (the Kailash Mansarovar Yatra) to the Tibet:** Both sides have agreed to conduct the Yatra every year from May to September. The Chinese side will make further improvements to the existing facilities on the route of the pilgrims and to maintain smooth communication has agreed to assist in renting wireless sets and local SIM cards.
2. **The three working groups set up under the Joint Economic Group** are: i) Services Trade Promotion Working Group ii) Economic And Trade Planning Cooperation and iii) Trade Statistical Analysis.
3. **MOU on Buffalo Meat, Fishery Products and Agreement on Feed and Feed Ingredients:** It aims at strengthening mutual cooperation in trade and safety of buffalo meat, fishery products and feed and feed ingredients, and to meet the regulatory requirements with respect to safety & hygiene & quarantine.
4. **MOU on Cooperation in the field of Sewage Treatment :** It aims at enhancing cooperation in the field of Sewage Treatment and experience sharing in the areas of mutual interest in the urban sectors.
5. **MOU on Cooperation in the field of Water Efficient Irrigation :** It aims at enhancing bilateral cooperation in the field of water efficient technology with applicability in the area of agriculture and exchange of best practices.
6. **MOU on Cooperation in Mutual Translation and Publication of Classic and Contemporary Works:** It provides for a Joint Working Group that will coordinate translation and publication of 25 books of Classic and Contemporary Works of each side over a period of 5 years in to Chinese and Indian languages respectively.
7. **MOU on Provision of Hydrological Information of the Yaluzangbu/Brahmaputra River** in Flood Season by China to India: China will provide India with information of water level, discharge and rainfall of 8:00 hrs and 20:00 hrs (Beijing Time) twice a day from June 1st to October 15th each year in respect of three hydrological stations on the mainstream Brahmaputra river.
8. **Agreement to facilitate cooperation and linkages** between Indian and Chinese cities & states/provinces Ambassador of India to China: Both sides agreed to identify sister cities and sister states/provinces in India and China with a view to establishing relationships between them in areas of mutual interest for enhancing greater people to people contacts.

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INDIA, CHINA AGREE TO REBUILD FRAGILE DEFENCE TIES

India and China have drawn up a long-term plan to gradually **rebuild trust between their militaries**, as they continue to grapple with the fall-out of the three week-long April stand-off along the border which has prompted both countries to re-examine the breadth of their defence ties. The plan, announced in a joint statement released and later detailed by officials after Defence Minister A.K. Antony concluded his talks, includes **increasing both the frequency** and number of locations of border **personnel meetings** along the disputed boundary, and **expanding direct contact** between the militaries.

The above two proposals, put forward by India, were a **direct response to the April 15 incursion by Chinese troops** into Depsang in eastern Ladakh. The incursion occurred in an area where differing perceptions of the disputed Line of Actual Control (LAC) were particularly pronounced. **By increasing the number of border personnel meeting points**, officials hope to gradually narrow the wide divergences between the two countries over the undemarcated border.

That the Depsang stand-off took as long as three weeks to be resolved also exposed the need for closer direct contact between the militaries. Part of the reason for the delay in ending the impasse was an apparent **lag in communications between the Chinese military and the Foreign Ministry in Beijing**, which was India's main point of contact. Unlike in the Indian set-up, the Chinese Foreign Ministry holds far less authority than the PLA and is often kept out of the loop in the Army's decision-making. The Chinese side appeared to **react positively** to the two proposals, as Mr. Antony met his Chinese counterpart, General Chang Wanquan, and Premier Li Keqiang and held talks with State Councilor Yang Jiechi, Special Representative on the boundary question.

Mr. Antony said he was —happy about the outcome **because there is a consensus of minds**, a consensus between governments and military leaderships that till we find a solution to the border issues, we must maintain peace, stability and tranquillity. He said the aim was —to avoid unpleasant incidents, and if they happen, to resolve them immediately. —In that respect, military-to-military-level confidence building is essential. There should be **trust and confidence and mutual respect** at the ground level also, he said.

While both governments have publicly continued to play down the April 15 incident, India has now made clear to China on at least three occasions in the months since the incursion that **without peace and tranquility on the border**, there could be no foundation on which to take forward the relationship in any other area. This was first conveyed by Prime Minister Manmohan Singh when he met Mr. Li Keqiang in New Delhi in May. A similar message was stressed by National Security Adviser Shivshankar Menon, while traveling to Beijing for the 16th round of border talks with Mr. Yang Jiechi.

Both sides also —agreed on an **early conclusion of negotiations** for a **Border Defence Cooperation Agreement**, a draft of which was first put forward by China, which has similar agreements with many of its neighbours, in March. After India responded with comments on the draft in May, which included **objections to any commitments to freeze border infrastructure** considering the prevailing wide asymmetry in China's favour, Beijing put forward a revised draft shortly before Mr.

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Antony's visit. Mr. Antony said there was forward movement on the draft, adding that on most of the provisions there is consensus.

CHINA BOLSTERS MILITARY'S ROLE ON ITS WESTERN BORDER

China's top Communist Party and military officials have held a meeting to **review security and development strategies** in western China, including regions bordering India. Xu Qiliang, a senior PLA General and Vice Chairman of the Party's powerful Central Military Commission, which is the top military body and is headed by President Xi Jinping, told the meeting the **military should take on a more prominent role** in developing western regions. At the meeting, which took place in Beijing, General Xu **ordered the military to make utmost efforts to maintain border security**. General Xu described the development and stability of western regions as being of **strategic importance to national security and development**.

He also called on the PLA to be fully aware that helping develop the west boosts the military's capacity to carry out diversified tasks. The meeting took place **amid on-going tensions with India** along the Line of Actual Control (LAC) in the western section of the border. General Xu also stressed the need to enhance solidarity between the military, local governments and the public and to uphold ethnic solidarity, in an apparent reference to **recent unrest in Tibet and Xinjiang**.

IMPACT OF CHEAP GOODS OF CHINA ON INDIA

Even as the impacts of globalisation continue to be debated, it is generally conceded that such impacts are uneven across the economies of nation-states and also within particular countries. **China has become India's leading trading partner**. Two-way trade between the two most populous countries on the planet and **the fastest growing large economies** is expected to reach around USD 80 billion by the end of fiscal year.

During China's President Wen Jiabao's visit to India, it was agreed to **double bilateral trade to USD 100 billion by 2015**. The trade deficit has been widening consistently and has reached USD 20 billion in **China's favor** causing concern among Indians. India accounts for just above 1% of China's total exports but exports from India to China are a relatively negligible proportion of total imports by China.

Casual anecdotal evidence points towards a fairly significant level of penetration of Chinese goods into virtually every nook and corner of markets in India - from **small gas lighters to advanced computers**, the Made in China product is very visible across the length and breadth of the country. China is considered the **manufacturing hub** of the world. There are allegations that Chinese firms have unfair advantages over their counterparts in other parts of the world (including India) in terms of **tax breaks and a devalued currency**.

Chinese exporters have been accused of dumping. As a matter of fact, India has initiated the **highest number of anti-dumping cases against China**. It has, therefore, become important to study and understand how the rapid increase of Chinese imports to India has impacted markets here. On the one hand, cheap imports from China could force Indian manufactures to become **more productive and competitive**. On the

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other hand, unfair and predatory trade practices by Chinese companies could prove harmful not only to Indian industry but to the country's economy as a whole by constraining domestic job opportunities or even, destroying livelihoods.

Whereas cheap products **attract consumers, concerns about quality and safety standards remain**. For instance, there was a controversy over the imports of products and technologies used by telecommunications companies, especially by **mobile phone service providers**. There were also concerns of bugging in Chinese electronic devices.

The festive season is the season of vocation especially **filling the pockets of traders**. But instead of the domestic industry holding sway over the market, the opportunities are **grabbed by Chinese manufacturers** with their variety of exquisite products. Whether it is SMEs (Small and Medium Enterprises) or cottage industries, they are not able to provide a stiff competition to the cost effective offers provided by the Chinese. Due to these relentless imports of Chinese products, most Indian cottage industries have closed down, and the upcoming of the existing ones looks very bleak.

The Chinese entrepreneurs have infiltrated the market in a very systematic manner with their well-planned marketing strategies and day-and-night innovations. They **study the demand patterns** and the market trends and **work out the last price** that they can offer to attract a colossal section of the consumers while still **maintaining a profitable margin**. As the Indian market is price-oriented, the domestic players are slowly losing their cope to the strategic Chinese entrepreneurs.

Chinese electronic goods like **radio, torch, videodisc players**, etc. are reigning supreme in the Indian markets. Decorative items, fashion accessories like slippers, jeweleries, hand-bags, etc. attract huge number of customers during festive seasons. This year, one saw the **flooding of the Indian markets with Chinese made idols** which were welcomed with open arms by the Indian consumers.

24% SLUMP IN INDIAN EXPORTS HIGHLIGHTS CHINA TRADE BARRIERS

New trade figures have shown that India's exports to China are **down by 24% from a year earlier** — the **biggest decline** among all of China's major trading partners. Figures released recently by the Chinese General Administration of Customs (GAC) painted a gloomy picture of the state of bilateral trade, despite a **surprising boost in China's overall trade performance** that bettered market expectations. **India's trade deficit with China, after 6 months of 2013, has ballooned to almost half** of the entire trade volume. Bilateral trade, after 6 months of 2013, **reached \$20.87 billion, down 6.2%**. Trade fell by 12% to \$66 billion, even as both countries set an **ambitious target of \$100 billion by 2015**.

Indian exports to China are down 24% as of September, reaching \$ 6 billion. The decline contrasted with rising figures for exports from other developing countries among China's biggest trading partners: exports from South Africa were up 55% and those from ASEAN countries up 7%. One reason is the **ban on exporting iron ore**. And, while **India has been pushing China to open up its markets to pharmaceuticals and information technology**, the moves have appeared to have made little headway so far. China's overall trade figures, however, exceeded market

expectations. The unexpected slowdown in **the Chinese recovery — the economy grew 7.7%** in the first quarter, down from 7.9% in the last quarter of 2012 — **had dampened expectations ahead of the release of trade data**, reinforced by uninspiring factory data.

CHINA'S FIRST 'BLUE BOOK' ON INDIA SEES A GOVT. IN 'SERIOUS CRISIS'

The first ever **'blue book' on India released in China** by a prominent official Beijing publisher has portrayed a government in **'serious crisis'**, but expressed the belief that India would likely **emerge as a stronger country** by conquering its current obstacles. Chinese think tanks release **'blue books' every year** on a number of issues. While not representing the government's view, the books are put together by official think tanks and the projects are understood to be given tacit backing by the government.

The first ever blue book on India was released recently by the Social Sciences Academy Press, detailing political, economic, foreign policy and defence issues for the year 2011-12. The book runs into more than 300 pages, and was **compiled by Yunnan University**, which has one of China's biggest South Asia programmes. According to a brief summary, the book sees India as weighed down by a number of crises — particularly **corruption scandals** — but also details **India's rising military strength**, which it sees as being partly directed at China. It ultimately expresses the optimistic view that India would emerge stronger from the current period of difficulty.

The book, however, sees India today as a country beset with numerous challenges, saying the current Congress-led United Progressive Alliance government was facing its most **serious crisis since it came to power in 2009**. It pointed to frequent **corruption scandals**, divisions within the UPA and public anger at the economic situation as leaving Prime Minister Manmohan Singh's government with a tarnished image amid declining public trust. It saw the year 2011-12, which the report covers, as among the worst since India's **'remarkable achievements'** after reforms in 1991. The book estimates that **by 2030, India's population will exceed that of China's**.

On the foreign policy front, the blue book notes that India has focused on boosting relations with its **neighbours in South Asia**, pushed forward peace with Pakistan and developed strategic relations with Bangladesh, Sri Lanka and Nepal — countries with which China has also recently deepened economic ties. It sees the **United States — pivot to Asia** and strengthening of alliances in the region — viewed by most analysts in China as being directed to **'contain'** Beijing — as accelerating India's **'Look East'** policy, observing that **India's defence cooperation with the U.S., Japan, Vietnam and Australia has warmed**.

SHANGHAI COOPERATION ORGANIZATION (SCO)

The Shanghai Cooperation Organization (SCO) is an inter-governmental **mutual-security organization** which was founded in **2001** in Shanghai by the leaders of China, Kazakhstan, Kyrgyzstan, Russia, Tajikistan, and Uzbekistan. Except for Uzbekistan, the other countries had been members of the **Shanghai Five**, founded in 1996; after the inclusion of Uzbekistan in 2001, the members renamed the organization.

India currently has **observer status** in the SCO. Russia has encouraged India to join the organization as a full-time member, because they see it as a crucial **future strategic partner**. Additional factors working in favour of India joining the SCO are its major military presence in Central Asia, its **close military ties** with several Central Asian countries (especially Tajikistan & Russia) and also its deep interest in the region's **energy resources**.

In 2010 India showed a **keen interest in joining** the group as it is a very important organization concerning the region. An entry into the SCO will allow India to **play a greater role** in the region, besides helping to narrow down the differences with its neighbours. The SCO in its meeting in **June 2010**, in **Tashkent** opened the doors for India's entry into the regional grouping, as it lifted the moratorium on new membership.

STRUCTURE

The **Council of Heads of State** is the top decision-making body in the SCO. This council meets at the SCO summits, which are **held each year** in one of the member states' capital cities. The **Council of Heads of Government** is the **second-highest council** in the organisation. This council also holds **annual summits**, at which time members discuss issues of multilateral cooperation. The council also approves the organisation's budget. The council of Foreign Ministers also holds **regular meetings**, where they **discuss the current international situation** and the SCO's interaction with other international organisations.

As the name suggests, the **Council of National Coordinators** coordinates the multilateral cooperation of member states within the framework of the SCO's charter. The Secretariat of the SCO is the **primary executive body of the organisation**. It serves to **implement organisational decisions** and decrees, drafts proposed documents (such as declarations and agendas), **function as a document depository for the organisation**, arrange specific activities within the SCO framework, and promote and disseminate information about the SCO. It is located in **Beijing**.

The **Regional Anti-Terrorist Structure** (RATS), headquartered in **Tashkent, Uzbekistan**, is a permanent organ of the SCO which serves to promote cooperation of member states against the three evils of terrorism, separatism and extremism.

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CURRENT OBSERVERS

Afghanistan received observer status at **the 2012 SCO summit in Beijing**, China on June 6, 2012.

India currently has observer status in the SCO. Pakistan, India and Iran received observer status at the 2005 SCO summit in Astana, Kazakhstan on **5 July 2005**.

Iran currently has observer status in the organisation, and applied for full membership on 24 March 2008.

Mongolia became the first country to receive observer status at the 2004 Tashkent Summit.

Pakistan currently has observer status in the SCO. Russia publicly endorsed Pakistan's bid to get full membership of the SCO.

DIALOGUE PARTNERS

The position of **Dialogue Partner** was created in **2008** as a state or an organisation who **shares the goals and principles of the SCO** and wishes to establish relations of **equal mutually beneficial** partnership with the Organisation.

Belarus & Sri Lanka were granted dialogue partner status in the SCO at 2009 summit in Yekaterinburg.

Turkey, a member of NATO, was granted dialogue partner status in the SCO at 2012 summit in Beijing.

SIGNIFICANCE OF SCO

With the rise of Asia and the emergence of Central Asia in global economics and politics the role of the SCO is growing in importance.

- The SCO was originally formed due to **growing security concerns** in the region, but its role has been extended to encompass economic benefits to member countries as well. The United States applied for observer status but was denied in 2005.
- SCO has contributed to **confidence-building and stability** in Asia. It has increased confidence-building and mutual trust among its members and observers—especially between China and **her 9 close neighbours**, including Uzbekistan and Iran with whom China shares no borders.
- The **borders** that China shares with 7 SCO members and observers takes up about three quarters of China's total land border- 14,799 km. When **peace and security** is maintained in such massive border areas, the peoples in the region no longer feel exposed to direct military threats.
- SCO countries comprise a hefty **25% of Earth's land area**.
- Central Asia is one of the world's most **energy-rich regions**. 5 nations bordering the Caspian Sea- Azerbaijan, Iran, Kazakhstan, Turkmenistan & Russia plus Uzbekistan hold **roughly 21% of the world's proven oil reserves** and 45% of the world's proven natural gas reserves.
- Although the declaration on **the establishment of the SCO** contained a statement that it is not an alliance directed against other states, many believe that one of the original purposes of the SCO was to serve as a **counterbalance to NATO** and the United States.
- In the recent past SCO member countries have discussed ways to cooperate on issues of **security, economics and politics**.

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- On the economic front, SCO members have agreed to improve the flow of goods in the region while prioritizing **joint energy projects** in the oil & gas sector, the exploration of new hydrocarbon reserves, and joint use of water resources.
- In order to bolster security among member nations, the SCO focuses on eradicating the threats faced from **terrorism, separatism, extremism and drug trafficking**. As a result, joint military exercises between the member countries play an important part in securing the region.
- **Cultural cooperation** also occurs in the SCO framework, with member countries holding art festivals and cultural exhibitions in each other's countries.

INDIAN INTERESTS

India's interest in the Central Asia region comes from a mixture of **politico-strategic concerns** and, perhaps to a lesser extent, perceived commercial prospects. India's initial reaction to the newly independent states of Central Asia, was like China's, largely defensive in nature. The **rapid growth of Pakistan, Iran, and Turkey's influence in Central Asia** generated a growing concern and resentment in Indian nationalist circles.

India's positive reengagement with the Central Asian states emerged due to **new international and geopolitical realities**. India's attempts to establish good relations with them is a matter of **pragmatism as India's neighbors and rivals**, Pakistan and China, are interested in the region. India was **able to capitalize on its past ties** with the Soviet Union to press its advantage in Central Asia. **India's prestige** can largely be attributed to its culture, general goodwill, and —as an old and trusted friend the Soviet era.

Today, India is turning to the SCO not for security purposes **but for economic motivations**. India's interest in Central Asia and the SCO, by and large, is the **result of its existing bilateral economic agenda**. India regards **economic cooperation** as the best way to counter Pakistan's influence in Central Asia.

SCO can provide a promising alternative regional platform to discuss the **rapidly changing Afghan situation**. Under the evolving global scenario, it is pertinent for **India to take a long-term view of the strategic significance** of associating itself with the SCO. Towards this end, India has already committed over US\$ 2 billion for reconstruction and developmental activities in Afghanistan. **The main focus of SCO is to combat three evils in the region terrorism, separatism and extremism.**

Regional Anti Terrorist Structure (RATS) a permanent acting agency of SCO coordinates the agencies of SCO members on dealing with these three evils. India is quite appreciative of the **greater cooperation within RATS** as an important regional answer to this challenge.

SCO states account for almost **one-third of the world's population**. The issue of connectivity between SCO countries therefore becomes crucial. India is ready to cooperate with regional countries in an endeavor **to build bridges between Central and South Asia**. This is further exemplified by the Indian interest in **re-energizing International North-South Transport Corridor** launched in 2000 (the route connects Mumbai in India, Bandar Abbas port in Iran and another port known as Bandar Anzali in

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northern Iran on the Caspian Sea coast- from Indian perspective, this route is shorter than the existing Suez Canal and the Mediterranean Sea). This route will **help India to bypass Pakistan to reach Central Asia.**

India is looking for **energy cooperation in the region** and the **TAPI (Turkmenistan-Afghanistan-Pakistan and Iran) project** can give India a strategic link in its extended neighborhood and South Asia. However, there are a number of reasons why this initiative might not see the light of the day - the pipeline passes through a conflict ridden region and the stability in this region may worsen, the economic cost of the pipeline may be more than estimated and India's share of piped gas may not be enough to satisfy the projected need. **Also, India is increasingly looking to Central Asia for its energy security needs.** The energy rich Central Asian countries will help India reduce its dependence on Iran for its energy needs.

At this juncture an organization like the SCO has **strategic importance for India.** It is an organization outside the **sphere of influence of the US and its allies** (although Russia and China largely define the agenda of the organization). Thus India is pitching for **enhanced role in the SCO.** India is already engaged with the SCO countries in areas such as **IT, management and entrepreneurship** development. However, India will have to be cautious as to what extent it desires to participate in an organization in which **China and Pakistan also play a significant role.**

In **2012, India** backed the 6-member SCO security grouping to play a **greater role in Afghanistan**, and expressed its interest to coordinate more closely with the group in tackling terrorism in the region. India described the situation in Afghanistan as **—the most important security challenge we face today**||. The SCO provides a promising alternative regional platform to discuss the rapidly changing Afghan situation. The group would **—play a bigger role in Afghanistan's peaceful reconstruction**|| **China offered a \$10-billion loan** to support economic cooperation within the SCO. Chinese officials stressed that the grouping would not look to play a similar role as NATO, pointing out that it was not a military bloc.

India reiterated her interest in **becoming a full-fledged member of the organisation.** Underscoring the security grouping's widening scope, the heads of member states in a declaration voiced their strong opposition to **armed intervention, forced regime change and unilateral sanctions**, delivering a direct message to the West on Syria and Iran. The grouping said it supported **—broad-based domestic dialogues that respects Syria's sovereignty, independence and territorial integrity**||. On the **Iranian nuclear issue**, the SCO leaders said they had **—deep concern**|| over developments and call on all parties to exercise **maximum restraint and avoid remarks** or actions which might further escalate confrontation.

ISSUES RELATED TO WTO

Though the WTO has come a long way forward in liberalizing the world trade, yet it has many issues pending since decades on which the consensus between the **developed and developing countries** as well as between the individual countries has not been arrived. The most important of these issues are:

1. Agriculture: Agriculture has become the **most important and controversial issue** in WTO. Agriculture is particularly important for developing countries, because around 75% of the population in developing countries live in rural areas, and the vast majority are dependent on agriculture for their livelihoods. The first proposal in Doha, in 2001, called for the end agreement to commit to substantial improvements in **market access**; reductions (and ultimate elimination) of all forms of **export subsidies**; and substantial reductions in **trade-distorting support**.

:: The **United States** is being asked by the European Union (EU) and the developing countries, led by **Brazil and India**, to make a more generous offer for reducing **trade-distorting domestic support** for agriculture. The US is insisting that the EU and the developing countries agree to make more substantial reductions in tariffs and to **limit the number** of import-sensitive and special products that would be exempt from cuts. **Import-sensitive products** are of most concern to developed countries like the EU, while developing countries are concerned with **special products** – those exempt from both tariff cuts and subsidy reductions because of development, food security, or livelihood considerations.

2. Access to patented medicines: A major topic at the Doha ministerial regarded the WTO Agreement on Trade-Related Aspects of Intellectual Property Rights (**TRIPS**). The issue involves the **balance of interests** between the pharmaceutical companies in developed countries that held patents on medicines and the **public health needs** in developing countries.

:: Before the Doha meeting, the United States claimed that the current language in TRIPS was flexible enough to address **health emergencies**, but other countries insisted on new language. In 2003, WTO members reached agreement on the TRIPS and medicines issue. It offered an interim waiver under the TRIPS Agreement allowing a member country to export pharmaceutical products made under **compulsory licenses** to least-developed and certain other members.

3. Special and differential treatment: In the Doha Declaration, the trade ministers reaffirmed special and differential (S&D) treatment for **developing countries**. The negotiations have been split along a developing-country/ developed-country divide. Developing countries claimed that the developed countries were not negotiating in good faith, while developed countries argued that the developing countries were unreasonable in their proposals. At the **2005 Hong Kong meet**, members agreed to **5 S&D provisions** for Least Developed Countries (LDCs), including the duty-free and quota-free access.

- 4. Implementation issues:** Developing countries claim that they have had problems with the implementation of the agreements reached in the earlier Uruguay Round because of **limited capacity or lack of technical assistance**. They also claim that they have not realized certain benefits that they expected from the Round, such as **increased access** for their textiles and apparel in developed-country markets. They seek a clarification of language relating to their interests in existing agreements. Before the Doha Meet, WTO members resolved a small number of these implementation issues. Outstanding implementation issues are found in the area of market access, investment measures, safeguards, rules of origin, subsidies and countervailing measures among others.

MAJOR ISSUES IN WTO NEGOTIATIONS

- A. Doha Development Round
- B. Singapore issues
- C. Quota Elimination
- D. Peace Clause

Doha Development Round

The Doha Development Round or Doha Development Agenda (DDA) is the **current trade-negotiation round** of the WTO which commenced in 2001. Its objective is to **lower trade barriers** around the world, which will help facilitate the increase of global trade. As of 2008, talks have stalled over a **divide on major issues**, such as agriculture, industrial tariffs and non-tariff barriers, services, and trade remedies. The most significant differences are between **developed nations** led by the European Union (EU), the USA, and Japan and the major **developing countries** led and represented mainly by India, Brazil, China, South Korea, and South Africa. There is also considerable contention against and between the EU and the USA over their **maintenance of agricultural subsidies**—seen to operate effectively as trade barriers.

Before the Doha, ministerial negotiations had already been under way on **trade in agriculture** and **trade in services**. These ongoing negotiations had been required under the last round of multilateral trade negotiations (the **Uruguay Round**, 1986–1994), the predecessor of WTO. However, some countries, including the United States, wanted to expand the agriculture and services talks to allow trade-offs and thus achieve greater trade liberalization.

The **first WTO ministerial conference**, which was held in **Singapore** in 1996, established permanent working groups on **4 issues**: transparency in government procurement, trade facilitation (customs issues), trade and investment, and trade and competition. These became known as the **Singapore issues**. These issues were pushed at successive conferences by the European Union, Japan and Korea, and opposed by most developing countries. Since no agreement was reached, the developed nations pushed that any new trade negotiations **must include these issues**.

The Doha Round committed all countries to negotiations **opening agricultural and manufacturing markets**, as well as trade-in-services (**GATS**) negotiations and expanded intellectual property regulation (**TRIPS**). The intent of the round, according to its proponents, was to make trade rules fairer for developing

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countries. However, by 2008, critics were charging that the round would expand a system of trade rules that were bad for development and interfered excessively with countries' **domestic "policy space"**.

The **2003 Cancún (Mexico) Ministerial talks** intended to forge concrete agreement on the Doha round objectives were collapsed- for several reasons. First, differences over the **Singapore issues** seemed incapable of resolution. The EU had retreated on some of its demands, but several developing countries refused any consideration of these issues at all. Second, the wide difference between **developing and developed countries** across virtually all topics was a major obstacle. The U.S.-EU agricultural proposal and that of the G20 developing nations, for example, show strikingly different approaches to special and differential treatment.

The collapse seemed like a victory for the developing countries. The **North-South divide** was most prominent on issues of **agriculture**. Developed countries' farm subsidies (both the EU's Common Agricultural Policy and the U.S. government agro-subsidies) became a major sticking point. The developing countries were seen as finally having the confidence to reject a deal that they viewed as unfavorable. This is reflected by the **new trade bloc** of developing and industrialized nations: the **G20**. Since its creation, the G20 has had fluctuating membership, but is spearheaded by the **G4** (China, India, Brazil, and South Africa).

During the **2004 Geneva Ministerial talks**, the EU accepted the elimination of **agricultural export subsidies** —by date certain. The Singapore issues were moved off the Doha agenda. Developing countries too played an active part in negotiations this year, first by India and Brazil negotiating directly with the developed countries. After intense negotiations, WTO members reached at the **Framework Agreement**, which provides broad guidelines for completing the Doha round negotiations. It contains **4 annexes** (A-D) covering agriculture, non-agricultural market access, services, and trade facilitation, respectively.

During the **2005 Hong Kong Talks**, a deal was reached that sets deadline for **eliminating subsidies of agricultural exports by 2013**. The final declaration also requires industrialized countries to open their markets to goods from the world's poorest nations, a goal of the United Nations for many years. The declaration gave fresh impetus for negotiators to try to finish a comprehensive set of **global free trade rules**.

The **2006 Geneva talks** failed to reach an agreement about reducing farming subsidies and lowering import taxes. A successful outcome of the Doha round became increasingly unlikely; because the broad **trade authority** granted under the **Trade Act of 2002** to U.S. president George W. Bush was due to expire in 2007. Any trade pact would then have to be approved by the U.S. Congress with the possibility of amendments, which would hinder the U.S. negotiators and decrease the willingness of other countries to participate.

The **2008 Geneva Talks** on the Doha round were stalled. The **two new drafts for negotiations in agriculture and industrial goods (NAMA)** were issued by the WTO at Geneva. The two new drafts showed very little areas of convergence, it linked the tariff reduction coefficients with the **flexibilities for developing countries**. It was apprehended that the NAMA text, if accepted would doom the future of many

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small and medium sized units and also cause problems to the fishery sector. The farm draft ignored the very basic aspect of food & **livelihood security** of the Third World.

In the Nama draft, the **flexibilities meant for developing countries** to keep their sensitive industries out of tariff reduction commitments, as promised in the Doha mandate had been completely taken away while developing countries are required to cut their tariffs by a greater proportion than developed countries, so much for the 'less-than-full-reciprocity' enshrined in the mandate. The negotiations crisis was further deepened over **falconer Draft** which provides for **Special Safeguard Mechanism (SSM)**, a measure designed to protect poor farmers by allowing countries to impose a special tariff on certain agricultural goods in the event of an import surge or price fall. United States, China and India could not agree on the **threshold** that would allow the mechanism to be used.

G-33 has been seeking flexibilities in the form of adequate no. of special products in agriculture which will not be subject to tariff cuts and a SSM which will be invoked to address the destructive impacts of imports. **India was upset** that the new proposals set a limit on a safeguard mechanism for protecting India's small and marginal farmers. In the draft, there were only 3-8 products on which India and other 45 countries in the G-33 Coalition could invoke the Special Safeguard Mechanism. **G-20 and G-33 Nations** rejected the revised agricultural text for introducing new and divergent elements. Rising food prices were the cause of much concern to several countries. India called for change in paradigm in the talks to slash distortions such as domestic support and to give priority to **food security of developing countries**.

The **US and some EU members** blamed India for the failure of the talks; while others consider that India and China should not be blamed for the failure of the Doha round. **India** claimed that its position was supported by over 100 countries. The talks remained inconclusive. **In December 2008**, WTO brought out two revised draft modalities for agriculture and NAMA. But the negotiations could not resume. India took the initiative in **2009** to restart the process again by calling a **mini-ministerial meet** at Delhi. The Delhi meet called for resuming the negotiations in Geneva again.

The **2009 Geneva Ministerial** meeting was not a substantive negotiating round but a platform for Ministers to **review the functioning** of WTO, including the Doha Round, and to discuss issues such as monitoring and surveillance of disputes, accessions, Aid for Trade, technical assistance and international governance. The main negotiating issues and the key elements from India's perspective in the Doha Round are to **honor the development dimension**; protecting the interest of poor farmers and industry and seeking greater market opportunities for its farmers and industry. India has been engaging with coalition groups to ensure that India's key interests are maintained.

Singapore Issues

The "Singapore issues" refers to **4 working groups** set up during the WTO Ministerial Conference of **1996** in Singapore. These groups are tasked with these issues:

- 1. Transparency In Government Procurement:** Government procurement, also called public tendering or public procurement, is the **procurement of goods and**

services on behalf of a public authority, such as a government agency. With 10 to 15% of GDP in developed countries, and up to **20% in developing countries**, government procurement accounts for a substantial part of the global economy. To prevent fraud, waste, corruption or local protectionism, the law of most countries regulates government procurement more or less closely. Government procurement is also the subject of the **Agreement on Government Procurement (GPA)**, a plurilateral international treaty under the auspices of the WTO.

2. Trade facilitation (customs issues): Trade facilitation looks at how **procedures and controls governing the movement of goods** across national borders can be improved to reduce associated cost burdens and maximise efficiency while safeguarding legitimate regulatory objectives. **Business costs** may be a direct function of collecting information and submitting declarations or an indirect consequence of border checks in the form of delays and associated time penalties, forgone business opportunities and reduced competitiveness. "Trade facilitation" is largely used by institutions which seek to **improve the regulatory interface** between government bodies and traders at national borders.

3. Trade and investment

4. Trade and competition

These issues were pushed at successive Ministerial Meets by the **European Union, Japan and Korea**, and **opposed by most developing countries**. The United States was lukewarm about the inclusion of these issues, indicating that it could accept some or all of them at various times, but preferring to focus on market access. **Disagreements** between largely developed and developing economies prevented a resolution in these issues, despite repeated attempts to revisit them.

Quota Elimination

Quota Elimination refers to an initiative to **eliminate the use of quotas in all textile and clothing trade** between nations which are members of the WTO. Doing so was one of the key commitments undertaken at the WTO **Uruguay Round** in 1994. The **ATC**, that is the WTO Agreement on Textile and Clothing, is the regulation governing textile and clothing and implements this commitment. The Agreement established a **10-year period** which would eliminate the use of quotas in all textile and clothing trade between WTO nations. It expired on December 31, 2004. As of January 1, 2005, the garment and fabric trade worldwide is **operating without quotas**.

Peace Clause

Trade negotiators generally refer to Article 13 of the **WTO's Agreement on Agriculture** as the Peace Clause. Article 13 holds that domestic support measures and export subsidies of a WTO Member that are legal under the provisions of the Agreement on Agriculture **cannot be challenged** by other WTO Members on grounds of being illegal under the provisions of another WTO agreement. The Peace Clause has **expired on January 1, 2004**. It is now possible, therefore, for developing countries and nations favoring free trade in agricultural goods to use the WTO dispute settlement mechanism in order to challenge, in particular, U.S. and EU export subsidies on agricultural products.

CRITICISM OF THE WORLD TRADE ORGANIZATION

The stated aim of the WTO is to **promote free trade and stimulate economic growth**. The actions and methods of the WTO evoke strong antipathies. Among other things, the WTO is accused of **widening the social gap** between rich and poor it claims to be fixing. Critics argue that the WTO does not manage the global economy impartially, but in its operation has a **systematic bias toward rich countries** and multinational corporations, harming smaller countries which have less negotiation power. Some suggested examples of this bias are:

- Rich countries are able to maintain **high import duties** and quotas in certain products, blocking imports from developing countries (e.g. clothing);
- The increase in **non-tariff barriers** such as anti-dumping measures allowed against developing countries;
- The maintenance of **high protection of agriculture** in developed countries while developing ones are pressed to open their markets;
- Many developing countries do not have the **capacity to follow the negotiations** and participate actively in the Uruguay Round; and
- The TRIPs agreement which **limits developing countries** from utilizing some technology that originates from abroad in their local systems (including medicines and agricultural products).

Many argue that **developing countries have not benefited** from the WTO Agreements of the Uruguay Round, and, therefore, the credibility of the WTO trade system could be eroded. One of the major categories of 'problems of implementation of the Uruguay Round' is the way the Northern countries have **not lived up to the spirit of their commitments** in implementing (or not implementing) their obligations agreed to in the various Agreements. Doha Round negotiations have veered from their proclaimed direction oriented to a **development-friendly outcome, towards a 'market access' direction** in which developing countries are pressurized to open up their agricultural, industrial and services sectors.

Labour and environment

Other critics claim that the issues of labor and environment are **steadfastly ignored**. WTO should begin to address the link between trade and labor and environmental concerns. In the absence of **proper environmental regulation** and resource management, increased trade might cause so much adverse damage that the gains from trade would be less than the environmental costs. Further, **labor unions condemn** the labor rights record of developing countries, arguing that to the extent the WTO succeeds at promoting globalization, then in equal measure do the environment and labor rights suffer.

Rich-country lobbies are seeking on imposing their unrelated agendas on trade agreements. These lobbies and especially the **rich charities** have now turned to agitating about trade issues with much energy understanding. Therefore, many have criticized the **introduction of TRIPs** into the WTO framework, fearing that such non-trade agendas might overwhelm the organization's function. Taken in isolation, TRIPs resulted in **reduced welfare for developing countries** and the world as a whole. Intellectual property does not belong in the WTO, since protecting it is simply a matter of

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royalty collection. The matter was **forced onto the WTO's agenda** during the Uruguay Round by the pharmaceutical and software industries, even though this risked turning the WTO into a glorified collection agency.

Decision making

Another critic has characterized the "Green room" discussions in the WTO as **unrepresentative and non-inclusive**; more active participants, representing more diverse interests and objectives, have complicated WTO decision-making, and the **process of "consensus-building"** has broken down. Results of green room discussions are presented to the rest of the WTO which may vote on the result. They have thus proposed the establishment of a **small, informal steering committee** (a "consultative board") that can be delegated responsibility for **developing consensus** on trade issues among the member countries.

Many label WTO as the **most non-transparent** of international organisations, because the vast majority of developing countries have very little real say in the WTO system. Many non-governmental organizations are calling for the creation of a **WTO parliamentary assembly** to allow for more **democratic participation** in WTO decision making. Such an assembly will have a more prominent role to play in the form of parliamentary scrutiny, and also in the wider efforts to reform the WTO processes, and its rules.

INDIA'S STAND

India is strongly in favour of a **fair and equitable rule-based multilateral trade regime**; therefore India is keen to conclude the Doha Round early. India favours resumption of the multilateral negotiations at an early date based on the following:

1. The draft text in respect to **Agriculture** and **NAMA** should be the basis on which further negotiations are held. A substantial amount of work has gone into preparing these texts and there is no reason to review them or to introduce new elements into these texts.
2. **Development in the developing countries** is at the core of these negotiations. Food and **livelihood security** of the poor is critical to developing countries and cannot be compromised under any circumstances.
3. All issues being discussed in the negotiations are part of a single undertaking; therefore, **adequate balance** amongst major issues has to be ensured in the agreement.

THE FUTURE OF THE WTO

An important analysis of the future of the WTO and the institutional challenges it faces was carried out in 2004 by the **Advisory Board chaired by Peter Sutherland**. However, no practical action was taken. The debate on the decision-making process, mandate, functioning and future of the WTO should be resumed in the light of the latest developments, with a view to increasing both its effectiveness and its legitimacy.

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- 1 The appropriateness of the **institutional structure** of the WTO;
- 2 The need to ensure **consistency and coordination** with the action being taken by other international organization;
- 3 The importance of the **parliamentary dimension of the WTO** in order to enhance the democratic legitimacy and transparency of WTO negotiations;
- 4 **Equal and effective participation** by all members, particularly LDCs;
- 5 Importance of **capacity building & technical assistance** for developing countries;
- 6 Introduction of a **more democratic system of decision-making** at the QTO that takes into account the views of the entire membership, which comprises countries at varying levels of development;
- 7 The need to examine various methods and procedures with a view to facilitating, on a **case by case basis**, the emergency of consensus;
- 8 The **limits of the formula of the –Rounds** of negotiations involving all WTO members on a very wide range of subjects;
- 9 The need to disconnect an much as possible **multilateral negotiations** from the national political situation of the different WTO Members;
- 10 The possibility of examining proposals and compromises prepared by **independent panels of experts**;
- 11 The issues of **external transparency**; the involvement of the civil society;
- 12 The reform of the **dispute settlement system**.