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ECONOMIC DEVELOPMENT

Inflation expectations

Highlighting the crucial connection between the current high levels of inflation and the expectation among consumers that prices will continue to rise as sharply in the future, the Reserve Bank of India has pointed out that since headline and core inflation have overshoot even the most pessimistic projections, there is a concern that inflation expectations might become unhinged. Indeed, anchoring inflation expectations at a low level has become one of the most daunting challenges of monetary policy. Reeling under high food inflation many households do not see any respite even in the year ahead. The same despair permeates the outlook on fuel prices as well, probably with an even greater justification. While global oil prices have been ascendant, they are not fully reflected in the domestic fuel prices. Both inflation and inflation expectations are conditioned by certain well known instruments of public policy. There should be a clearly stated inflation objective for macroeconomic policy and management, and also for monetary policy. Secondly, central banks must deploy a credible range of monetary instruments which they must be able to refine as and when necessary. Thirdly, conditions ought to be created for the proper transmission of the policy action. In India the RBI is responsible for controlling inflation, but the government has an important role in influencing supply-side factors.

Sound inflation management demands that the central bank and the government work in tandem even if, at a particular juncture, inflation is attributable to a factor over which only one of them has influence. Thus, even when on many a recent occasion inflation was being pumped up chiefly by food prices, the RBI expressed its resolve to back government action with monetary measures even if those were not clearly indicated. The major measures announced in

the recent RBI monetary policy statements are noteworthy. For instance, the 0.75 percentage point increase in the repo rate over six weeks, making the repo rate the sole policy rate, and the creation of the new Marginal Standing Facility from which banks can borrow at one percentage point above the repo rate are all decisive steps in the context of inflation management. It is highly significant that even when the RBI lowered the growth estimates and increased those of inflation thereby differing sharply from the official position, the government has backed the central bank. More realistic growth and inflation estimates, and greater cohesion between the government and the RBI are all vital ingredients in a well thought out strategy of controlling inflation and anchoring inflation expectations.

Inflation is back

The number of poor in India may rise

Jayshree Sengupta

HIGH inflation is back with us — it is reflected by the Wholesale Price Index (WPI) which rose to 9.06 per cent in May 2011. Now the diesel, kerosene and cooking gas price hike will make things worse for the common man. Food inflation, which had receded on June 4 to 8.9 per cent, is also back at 9.13 per cent.

India is experiencing the fastest increase in prices among the big emerging market countries (Brazil, Russia, China) which is already having deep ramifications on foreign investment and its stock markets. Inflation in China, causing problems of competitiveness to its manufactures, is almost half (5.5 per cent) of that in India. Basically, the Government of India is facing problems of mismanagement and lack of governance in being able to control runaway prices. The Central government is not taking enough strong steps either to stop corruption or arrest the rising inequalities or tackling inflation. Regarding stock markets, India's is one of the worst performing ones and even Pakistan's stock market is doing better. Inflation in India is discouraging foreign institutional investments.

The Reserve Bank of India has raised interest rates 10 times since March 2010 to control inflation, and its adverse impact on the demand for goods and services, investment and corporate profits is already visible. The Index of Industrial Production fell to 6.3 per cent in April from 8.8 per cent in March 2011. The GDP growth has also slowed down to 7.8 per cent in the three months ending March

31. Unfortunately, the multiple rate hikes have not been able to tame inflation.

Some basic problems of the Indian economy also remain unresolved. In agriculture, inadequacies in infrastructure, mainly in storage space, irrigation and transport of perishable goods, remain. The minimum support prices for foodgrains, on the other hand, have been raised again which means that there will certainly be higher foodgrain prices next season despite the bumper crop.

The hike in diesel prices will hit all transportation costs and it will have a cascading effect on the prices of all commodities. Another petrol price hike is also imminent, given the current losses of the government oil companies. The excise and customs duty cuts on petroleum products, aimed at relieving the burden on the common man, will mean Rs 49,000 crore revenue loss for the government's exchequer which will cause problems in controlling the size of the fiscal deficit.

How will the poor cope with high food and non-food inflation? Even going by the Planning Commission figures, there are over 300 million people living in abject poverty. According to it, there are less poor today than three years ago and poverty is supposed to have come down from 37 per cent to 32 per cent in 2009-2010. But there are many more millions who are just "above the poverty line" and are still miserably poor.

India's growth story could indeed be spoilt if we have large numbers of poor without skills, employability and good health, and also have high inflation. This is because with meagre incomes in times of inflation, poor people spend a large chunk of their earnings on food which leaves them with very little for other essential requirements like health, education, housing and nutrition of children. It is a dangerous situation as it affects the welfare of the future generation.

In many parts of India, poverty is persisting and people are getting deeper into it. This is the case in tribal areas where the level of human development is very low, and people inhabiting those areas have for centuries depended on forest produce. With their land taken away from them by the state and sold to private mining or manufacturing companies, a sizeable tribal population has nothing to live on. They are not trained in skills and cannot get jobs. They are easy recruits for the Maoists, who keep looking for disgruntled youth having no future.

Unskilled labourers, who have no assets but only labour to sell, are also at the risk of remaining poor for generations and with high inflation, their expenditure on education and health of children will fall further.

While it is true that the Indian middle class is growing and more than before people are enjoying foreign travel, can afford private schools for their children and own cars, houses/ flats, yet there are millions who are outside this charmed circle and are suffering multiple kinds of deprivation. The middle class does not mind a hike in petrol/diesel prices because it is a small proportion of its budget, but the poor have to pay higher prices for all goods. Inflation is making the poor poorer.

Instead of concentrating on controlling inflation through hikes in interest rate and expecting people to save more and spend less by raising EMIs (equated monthly instalments), the government ought to make its public distribution system, health care, water supply, education and public transport facilities more efficient and accessible.

In times of high inflation, subsidised foodgrains help the poor because these provide for their basic nutritional needs. But, instead of trying to improve it by plugging the loopholes, the government

seems keen to dismantle it and substitute it with direct cash subsidies from next year.

The poor ought to have more access to public goods than the rich which is the basis of an egalitarian society. Here in India, more and more people are going for personalised transport — cars and two wheelers — choking the roads and highways and increasing congestion and air pollution because of lack of a satisfactory public transport system. All industrialised countries have spent huge amounts on an efficient public transport system over decades, and have encouraged people to use mass rapid transport facilities, but this is not the case in India so far. This lack of efficient/cheap transport will affect the poor more.

The EU members, Canada and Nordic countries also have an efficient health care system and a good public schooling facility. In India, even the poor have to go to private clinics and hospitals.

The water supply system is also good in most developed countries, where everyone has access to tap water. In India, water treatment plants are not doing a sufficiently good job, and most urban people (even the poor) drink filtered, boiled or bottled water, adding to the cost of living of the average citizen.

As for rural India, inflation is having a severe impact on the health of children and their schooling. Higher kerosene prices will increase the lighting and cooking expenditure of the rural population. The rural poor will suffer in many ways and this will have long-term effects on human development in the country.

EDUCATION

Cut off from college

Deepak Nayyar

Late June and early July are a season of anxiety in urban India. Large numbers of students who have completed their Class XII examinations, and their parents, are on tenterhooks. The only exceptions are the few who have already obtained admission into professional courses in engineering, medicine or law through entrance exams that are an almost Darwinian selection process.

An overwhelming proportion of school leavers, however, seek admission to undergraduate courses in social sciences, humanities, sciences and commerce. But undergraduate colleges are mostly poor in provincial cities and simply do not have enough places in metropolitan cities. Declining academic standards, everywhere, accentuate the problem, as talented students migrate intensifying competition for places in good institutions.

At the [University of Delhi](#), for example, those with 90% marks, or even 95%, cannot be sure about getting admission to a college and subject of their choice, while those with 70% marks can be sure that it is almost impossible for them to get admission. Surprise turns into shock and anguish turns into despair. For those excluded, no consolation can suffice. Yet, it is important to understand why this is happening.

It would seem that marks awarded to students in Class XII seem to increase year after year. This is simply grade inflation. For a long time, the school examination system was perceived to be subjective

and error prone. In order to address this problem, the [Central Board of Secondary Education](#) (CBSE) tried to make the examination system as objective as possible to neutralise error or bias recognising the reality that the quality, or conscientiousness, of teachers who graded scripts is so uneven. In this endeavour, [CBSE](#) did succeed. But the objective nature of questions and answers led to grade inflation.

With the passage of time, students helped by their schools and private tutors mastered the art of writing CBSE examinations. Grade inflation gathered further momentum. Excellence in performance went from 75% to 80% through 85% to 90% and beyond to 95% plus. It is not that students got so much better or brighter. Their grades rose steadily, not only at the top but also across the board, even though the quality of the top 1% or 5% of the students has not changed. It is no surprise that cut-off points for admission to undergraduate courses rose at the same pace as grade inflation. This was a consequence rather than a cause. As marks obtained in Class XII exams, whether CBSE or state boards, have climbed over time, so have cut-offs. And it is wrong to blame universities or their undergraduate colleges, in Delhi or elsewhere in India, for this situation. If anything, universities and colleges that adopt cut-offs in school leaving examinations as the criterion for admission are transparent and fair, accountable to both students and parents, in a system that is increasingly susceptible to intervention or manipulation.

The fundamental problem is different. It has two dimensions.

First, the number of school leavers seeking admission to undergraduate courses has increased at an exponential rate. The underlying demographic factor of our increasing young population is the driver. But the growing aspirations of the young also see higher

education as the only access to employment possibilities and social opportunities.

Second, the number of places in undergraduate education, apart from seats in substandard private institutions, has registered little if any increase. The bottom line is that we simply do not have enough capacity in terms of seats for undergraduate education of an acceptable quality. It is obvious that we need to create far more opportunities in higher education for young people. Until that happens, the situation can only worsen.

The problem of admissions is far more acute in the top 10, or 15, established undergraduate colleges, particularly at the University of Delhi, where places are limited but demand is enormous because these few institutions provide an imprimatur. Their brand equity opens up a vista of opportunities for their graduates. They draw aspiring students almost like magnets. Their attraction has become even stronger over time because of the sorry state of institutions that were in the premier league not so long ago. There has been a steady decline in these institutions outside Delhi, in Kolkata, [Mumbai](#), Chennai, Pune, Allahabad, or even Patna. Thus, students from elsewhere in [India](#) also flock to Delhi in search of educational opportunities. It is not that the University of Delhi, or its colleges, have got better. It is just that others have got worse.

What is to be done? The challenge in undergraduate education is to increase opportunities without diluting standards. This means increasing the number of places for students in our megacities. But it is neither feasible nor desirable to expand capacities by increasing the intake in existing colleges or the number of affiliated colleges in existing universities. Both are already stretched beyond limits. And governments, Centre and states alike, simply do not have the resources to finance such expansion.

It is imperative that we establish a central board, as also state boards, of undergraduate education, which would set standards, curriculum and examinations. These boards would be empowered to grant affiliations to undergraduate colleges, much like CBSE does for schools. Such colleges could be established by the government, the private sector, or public-private partnerships. The time has come to think big and think long.

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HEALTH

HINDU 30.6.11 HEALTH

Universal health care: the barriers and the way forward

Dileep Mavalankar

Health targets fail as they are set without strategies. The 12th Five-Year Plan should be used to look at the changes needed in the public health system.

Health is currently a privilege in India. Not a right. Maternal and child health remains neglected even after countless plans, programmes and political proclamations. Every year, nearly 60,000 women die in pregnancy and childbirth, while approximately 1.7 million children less than five years of age also die. In absolute numbers, India outranks all other countries in both regards. Sadly, most deaths can be prevented with available technologies. Many diseases such as tuberculosis and pneumonia kill thousands every year. While infectious diseases are very much a concern, chronic diseases are now rapidly catching up. India has become the capital of diabetes, high blood pressure and heart disease. Health targets in plan after plan have not been achieved, yet there has been no systematic analysis of why health systems fail to achieve these targets.

The fundamental reason why our health targets are not achieved and will not also be achieved, unless we radically change our strategies,

is that we set targets without setting strategies; without understanding what is preventing progress; and without putting adequate human and financial resources toward achieving targets. First, we equate the number of buildings to available health services. The Planning Commission and Central and State governments only count the number of health centres, without bothering to find out what is happening at these centres. Many are without staff, electricity, a telephone, water, medicines or an ambulance. No wonder these centres do not have patients — mothers or children — to take care of. Surveys have shown the inadequacy of our health infrastructure and that health workers are not staying where they are posted. There are good reasons why health staff do not stay in villages. But health departments have not bothered to study this problem or remedy it. Not only are workers not staying, studies have also shown that they are quite frequently absent without reason. Such unaccountability is treated as routine and not discussed in health policy forums.

The second reason for a lack of services is underfunding and poor management of medicines, leading to a lack of availability. How can an army fight without ammunition? The lack of medicines forces poor patients to buy medicines from private pharmacy shops, which can be expensive. Often times, the quality of medicines available from these shops and government health centres is poor due to the government's weak oversight on pharmacies and poor procurement policies. Patients do not want to go to clinics where they do not get medicines or where they are of poor quality.

Managers

While planning and funding are major problems, the root of the health problem in India, I feel, is the lack of adequate numbers of well-trained managers. Many national health programmes cover millions of beneficiaries, yet they are managed by just two or three

technical managers who are general or specialist doctors.

Most of the time these individuals are without any public health or management training. They learn this on the job. This is also true for health secretaries and ministers — they all learn on the job. We are obsessed with training an eighth standard-passed village health worker with six to seven modules — but there is no training or even orientation for top policymakers and managers in the health department before they take up such important managerial and policymaking jobs. Why isn't health systems management made compulsory before an officer takes up the job of director or secretary in the health department?

The way out

Fortunately, things can rapidly change in the next few years, if government and society pay a little more attention to health. During the last five years, the government has put in significant resources into the National Rural Health Mission (NRHM). At the same time, many States are also using local solutions to various problems. Preparations are underway for the 12th Five Year Plan (FYP), and thus we should be looking at what radical changes are needed in the public health system. Budgets for health services will need to increase by a factor of three to five times. The national government is committed to take health funding from less than one per cent to two to three per cent of the GDP. This is critical. The government must chart out how the Centre and States will increase these budgets over the next five years. This will also require advocacy on behalf of the health community. And we must also be more smart in how to spend the money that is already available. Money remains unspent in health because the regulations around spending are so complicated and confining that doctors and health works cannot spend the money. Many times, money does not arrive in time for it

to be useful.

Health care is provided by humans. Not by buildings or physical infrastructure. We need to get doctors and nurses to go to remote and rural areas and work there. This means paying them much higher wages, providing much better housing and other amenities, and making the working environment conducive to their lives.

Appreciation of the doctors and nurses who work in remote areas will ensure that younger doctors go to rural areas and serve the poor. Another solution could be to contract private providers, where government providers are unavailable and unwilling to provide services. Gujarat did just this through its much acclaimed “Chiranjeevi Scheme.” Here, the government pays private doctors a fixed fee for conducting child birth services for poor women in their private hospitals. “Rashtriya Swasthya Bima Yojana” also provides financial access to care in private and public services to the poor throughout the country. This is truly innovative and revolutionary.

Technology and drugs

While improving health systems is critically important, we cannot afford to wait until such changes are made before also improving the technological base for health systems. This means better machines and newer drugs and vaccines. For example, new vaccines and diagnostic techniques that can prevent or diagnose early some of the diseases among children and women are currently available in the private sector, but these technologies remain out of reach for the poor. The health department must have a division of technology assessment that is responsible for identifying and rigorously evaluating potentially useful and cost effective technologies for adoption in national health programmes in India. All this can happen if there is a high-level of political commitment and the Prime Minister and Chief Ministers take personal interest in health

improvements.

Of course, more resources need much better management in order to deliver results. Health departments must have an adequate number of qualified programme managers and health planners to ensure better programme design and effective implementation. I strongly believe that we can do this in 12th FYP, and it will be a big step towards universal access to health.

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INTERNATIONAL RELATION

Change With The Times

Jean-Pierre Lehmann

In the course of the last decade the world has undergone the most profound transformation in all of its millenniums of history. Between 2000 and 2010, the share of global [GDP](#) of the three leading emerging economies - China, [India](#) and Brazil - doubled. The remarkable developments reflect not only changes occurring within these dynamic economies, but also between them.

China's share of global trade was 2% in 1990, less than 4% in 2000 and 11% now. Similarly, between 2000 and 2010, Brazil's exports to [China](#) increased some 20-fold; from having been a very distant speck on the Brazilian trade horizon, China is now Brazil's biggest trading partner, surpassing the US and the EU.

The dynamism and optimism in the emerging economies contrast sharply with the moroseness and pessimism in the [EU](#), Japan and even the US. The greatest risk to the world economy is Eurozone's debt problems. [Europe](#) is in a state worse than the East Asian economies in the 1997-98 Asian financial crisis when loud western pontificating voices bemoaned Asian "crony capitalism". Europe's decline as an economic force seems irreversible, among other things, for demographic reasons: Europeans as a proportion of world population declined from

25% in 1900 to less than 10% of the world population today. According to [IMF](#) statistics, Europe's share of global GDP (at purchasing power parity) will decrease from 25% in 2000 to 18% in 2018.

Had the proverbial Martian visited Deauville, the resort and setting of the G8 summit in May, she would hardly have been aware of these profound changes or the state of Euro-decline. Not only was the G8 held in Europe, under a European president (Sarkozy), dominated by European countries (five, including [Russia](#), out of the eight), they also rallied round the European candidate (French finance minister [Christine Lagarde](#)) to succeed Dominique Strauss-Kahn, another ex-French finance minister, as IMF head. The imperative of a European head arises, Europeans argue: one, from the tradition of having a European at the IMF and an American at the [World Bank](#) and, two, on the ground that 80% of IMF lending is now to Europe and there are the greatest risks in the Eurozone.

This is palpable nonsense. If you follow that logic, there should have been a Mexican head of the IMF at the time of the Mexican crisis, an Asian at the time of the East Asian crisis, etc. As to "tradition", traditions have to change and adapt to the times. Societies not capable of adapting their traditions or creating new ones degenerate. That was to a considerable extent China's history for some 200 years until the country "woke up" and embraced globalisation in the late-1970s - and it hasn't looked back since.

The survival and development of societies depend on two prominent factors: a propensity to change and adapt, and the quality of its governance. In early 21st century governance, these factors are conspicuous by their absence. While technologies and markets have changed exponentially, changes in global governance, with very few exceptions, have simply not happened, while entrenched positions have been jealously guarded.

The UN Security Council's composition reflects realities in 1945, yet the prospects of change are less than that of pigs flying. The WTO has been stagnant and unable to conclude its current round of negotiations (Doha), while the real world of trade is booming in all sorts of new directions.

The G6 was founded in 1975 (to later become G7 with Canada's addition). In 1975, the idea of the heads of the world's major economies getting together on a problem-solving and confidence-building informal forum made sense. Following 30 glorious post-war years of growth and near full-employment, the oil crisis of 1973-74 resulted in the worst economic crisis since the 1930s. France, Italy, Germany, the UK, the US, [Canada](#) and Japan were the global economic powers at the time. China, India, Brazil and all other emerging economies as well as the communist states were not in the picture.

A good idea in 1975 became an obsolete idea by 2000. In 2008 when the global recession hit, there was an element of innovation in the convening of the first ever G20 summit in Washington in November that year. This was followed by one in [London](#) in April the following year. Both meetings did have an impact in mitigating the effects of the "great recession". Arguably, it could have been much worse without the G20. This is a good example of institutional innovation and adaptation.

Since then, the G20 has meandered aimlessly, rich on rhetoric and photo-ops, poor in substance, identity, credibility and legitimacy. The G20's existential problems are compounded by the persistence of the G8. The latter has reverted to seeking to project itself as the "real show", while the G20 with all these parvenus - including India, China, Korea, [Indonesia](#), Argentina, Brazil, Mexico, South Africa, [Turkey](#), [Saudi Arabia](#) - are the side show.

In this highly interconnected world, the misalignment between new realities and obsolete governance structures is a grave concern. The global economic edifice has rebounded in many (mostly emerging

economy) parts of the world quite dynamically since the recession. But the governance foundations remain weak. It is likely there will be other shocks to the global economy in the years ahead. Business leaders should worry that global governance is weak, and take an active role in making it stronger. Since so much business is moving to the developing world, obtaining G8's abolition and strengthening G20 would be a step in the right direction. Ending the "tradition" of a European heading the IMF would be another.

The failure to adapt, modernise and strengthen global institutions and global governance could prove extremely costly. Better to act now.

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POLITICS AND GOVERNMENT

HINDUSTAN TIMES 25.6.11 POLITICS AND GOVERNMENT

Answer the question

Karan Thapar

Not unlike Indira Gandhi, whom she admired, Margaret Thatcher was a shrewd politician. One of the talents both women possessed was a perceptive understanding of the popular mood. And they knew how to respond to it. Ironically, both fell when they lost this gift - Gandhi with her Emergency and Thatcher over her Poll Tax.

Of the two, Mrs Thatcher was better at handling the press. I vividly remember an occasion in the mid-80s when a young Cockney spark stopped her in her tracks with an innocent question.

"Tell me prime minister," he asked, "when do you agree to give an interview and when do you refuse?"

Mrs Thatcher, who was pouring beer into the young man's glass - a ritual which in those days concluded interviews at 10 Downing Street - gave him the full force of her attention. Clearly it was an enquiry she wanted to answer.

"When things have gone wrong, when my government has problems and when criticism is loud I give as many as I can," she began. "And do you know why? Because I need to reassure people that I'm responding to

their concerns, that I care and, ultimately, that they can rely on me to put things right."

At this point the Iron Lady paused, knowing she had the young spark - and all the rest of us - riveted. She enjoyed the sense of control that this gave her.

"But when things are swimming along satisfactorily and all seems well, I refuse. And do you know why? Because chances are I'll put my foot in my mouth and create a problem for myself!"

Alas, our politicians do the exact opposite. When they're in trouble they clam up and their silence confirms or, even, fuels the sense of crisis. But when they're on a roll they start to crow and, before long, end up with egg on their faces.

For the first time in decades the government behaved very differently when, last week, Kapil Sibal and Salman Khurshid decided to give interviews and answer the many questions, accusations, doubts and, even, the ignorance about the lokpal issue. If the stand of the media has shifted and public perceptions altered, this is a significant part of the explanation.

Up till now the government has argued that speeches and press conferences are enough to mould opinion. It's a folly the Vajpayee administration was equally guilty of. While speeches are ideal when you have a case to make and press conferences are perfect when you want to respond to a wide range of issues without going into detail or subjecting yourself to scrutiny, neither is adequate when you need to prove you're on top of a crisis and answer an adverse public opinion.

Why? Because in a speech you set your own agenda and at a press conference rival questions by a multitude of journalists confuse or diffuse the agenda. It's only when you willingly subject yourself to a hostile agenda set by someone else that you're perceived to be answering

their concerns. Only in those circumstances can people be persuaded to believe you have the answers and care. And this will only happen in an interview.

Mrs T understood this. Indeed, that's why Obama, Cameron, Sarkozy, Merkel and every other leader of a vibrant democracy gives so many interviews.

One last point: don't be deterred by the fact you can't answer every question. No one can and it doesn't matter. What you need to show is you're sincere in trying and determined to succeed.

Margaret Thatcher achieved 11 years in office because she convinced Britain of her sincerity and determination.

PIONEER 27.6.11 POLITICS AND GOVERNMENT

Gift-wrapped bunkum

Joginder Singh

Having run out of ideas and with no success to show, the Government is now re-packaging and selling to the people what is already there in the Constitution.

Of late, the Union Government has exhibited a penchant for regurgitating Fundamental Rights already embodied in the Constitution in the form of New Rights, as if it was doing a favour to the people by providing them with newer and unprecedented entitlements. Take for example the National Employment Guarantee Act which promises wages that are so low that one is destined to starve and even that paltry sum of money is siphoned off, or the Right to Education which is meaningless given the inadequate number of schools, lack of proper class rooms and the absence of teachers. The proposed Right to Justice Bill is the latest addition to the list.

Without ensuring that there is adequate infrastructure to implement laws, if by simply promulgating them development could have been achieved,

India would have been a heaven by now. Moreover, one cannot expect any improvement only because a Bill has been passed unless there is the political will necessary to improve the system. Thus, the Right to Justice, however well-intentioned it may be, will remain only a dream as the Government is not serious about ensuring justice for the masses.

The President of India had observed on May 31, 2010: “Government agencies being one of the biggest litigants must exercise restraint from routinely instituting litigation and clogging the system...We must take stock of the challenges and structural weaknesses which beset our legal system, impeding equitable access to prompt and quality justice. Judicial reform should occupy a salient place in the Government’s agenda...There cannot be better governance without better laws and there cannot be better laws if antiquated ones remain. Archaic laws and outdated administrative regulations must be scrutinised and if necessary scrapped or amended. Making the language of law simple can prevent unnecessary litigation.”

She had then gone on to add: “We must re-engineer and simplify court procedures, which otherwise tend to make litigation unduly slow and protracted. Frequent demands and liberal grant of adjournments, filing of multiple suits and similar tactics make judicial productivity sluggish. Timely pronouncement of judgements and quick execution of decrees would be beneficial... Congestion of court cases has been compounded by shortage of judicial manpower and low judge to population ratio. We must explore betterment of this ratio by augmenting the strength of the judiciary without compromising on quality.”

The Government has admitted, more than once, that the state is the country’s biggest litigant. Seventy per cent of the over three crore cases that are pending in Indian courts involve the Government as either petitioner or respondent. To make matters worse, 90 per cent of those cases fail and should not have been filed in the first instance, as the Prime Minister has pointed out.

Last year, the Union Minister for Law Veerappa Moily also said that the Government was pursuing several frivolous cases, causing huge losses to the exchequer and burdening the judicial system. Giving an example, he said that matters relating to individual grievances such as pensions and retirement benefits should not be appealed against. “Such appeals should be avoided as litigation costs in them are much higher than the payoffs,” said Mr Moily. Sadly, all efforts by the Government to become a fair, just and responsible litigant have failed.

To make matters worse, the country’s judicial system is plagued by an inadequate number of justices who can hear cases. As of April 1, there were 288 vacancies across all High Courts which have a collective backlog of 41.8 lakh cases. The Supreme Court too functions with only 29 out of the sanctioned 31 judges.

Three years ago, the then Chief Justice of India had said that India needs 77,000 judges to clear its judicial backlog and called for increasing the population-judge ratio from the existing 9.5 judges for every 10 lakh people to 50 judges for every 10 lakh people.

Uttar Pradesh, India’s most populous State, rightly has the highest number of sanctioned high court judges at 160 but also the maximum number of vacancies at 95. With a population of 199 million — only one-third less than the population of the US, the third most populous country in the world — Uttar Pradesh has just 65 sitting judges. The Allahabad High Court, including its benches, is working with just 36 per cent of the sanctioned judges. Needless to say, this High Court also has the maximum number of pending cases at 9.6 lakh.

Maharashtra, India’s second most populous State with 112 million people is sanctioned 75 judges but here too some 14 positions are vacant. The Bombay High Court and its benches have a collective backlog of 3.4 lakh cases. Other High Courts where there are a significant number

of vacancies are Punjab and Haryana (26 out of the sanctioned 68), Rajasthan (19 out of the sanction 40) and Calcutta (16 out of the sanctioned 58). The Gujarat High Court too is working with exactly two-thirds of its sanctioned strength of 42 judges. Additionally, the Punjab & Haryana High Court is short of 24 Additional Judges though its sanctioned strength is 29.

In August 2010, the Solicitor-General of India commented on these prevailing conditions. He took Uttar Pradesh as a test case and read out statistics that reflected poorly on the Allahabad High Court, which is administratively in charge of the subordinate judiciary in the State. According to him, 10,541 criminal trials were stayed by the Allahabad High Court. Of these, nine per cent were pending for more than 20 years and 21 per cent for over a decade.

In other words, stay of trial in 30 per cent of offences continued for more than 10 years. In a classic observation, he said: “It’s sad that administration of justice has come to such a pass. The High Courts stay the trial and forget all about it. This means, we are choking the administration of justice. No one should be denied a fair and speedy trial. Also, what about the victims? What about society which feels that a wrongdoer should be punished at the earliest? Though these stays, that is being denied.”

When the Solicitor-General said that the Chief Justices of High Courts should play an active role in clearing the mess arising out the decade-old stay orders on criminal trials, the Bench claimed: “The Chief Justices are helpless. They have a tenure ranging from one year to even two months. What can a Chief Justice do in such a brief tenure? They cannot deal with this problem as their brief tenures do not allow them to even understand the dynamics of a particular High Court.”

Taking a dig at the Government and its law officers, the Bench pointed out that, “Six months back, you and your colleagues had pioneered a

programme for expeditious justice in the face of crores of cases pending in trial courts. But the entire system seems to have either crumbled or is crumbling. What else can be said when nine per cent of cases have been stayed for more than 20 years.”

Therefore, the bottom line is that unless basic steps are taken to first reform the entire criminal justice system, the promised 'Right to Justice' will not help anybody. If there are no judges to decide, how will any case be disposed of? The Government must remember that you can fool some of the people all of the time, and all of the people some of the time, but you cannot fool all the people, all of the time.

URBAN DEVELOPMENT

HINDU 27.6.11 URBAN DEVELOPMENT

Urban partnerships for a sustainable future

Noeleen Heyzer

Asia's urban future is one of opportunity. Urbanisation, well-managed, is a chance to put our development paradigm on the right track – on a track that will result in inclusive and sustainable development for Asia and the Pacific. However, keeping to this vision, we are cognisant of the threats that urbanisation in the region brings. Changing our development paradigm will not be easy. We must plan our path forward on a deeper understanding of the challenges to overcome.

The region's response to managing and making our region's cities liveable for all was at the heart of discussions at the Fifth Asia-Pacific Urban Forum in Bangkok this past week (June 22-24, 2011). Organised by UN ESCAP, with opening addresses from Thailand's Royal Princess Chulabhorn Mahidol and Prime Minister Mr. Abhisit Vejjajiva, the Forum brought together government ministers, mayors and city officials from across Asia and the Pacific together with representatives from 30 United Nations agencies and international organisations to discuss emerging urban issues and exchange

innovative policies.

Four key challenges

There are four key urban challenges in Asia and the Pacific. The first challenge is the sheer scope and pace of urbanisation. Our cities are already home to 1.6 billion people. By 2025, the urban population in Asia and the Pacific will be 2.3 billion people. To put this figure in perspective: we need to provide jobs, housing, water, energy, transport, education and health infrastructure for a city the size of Melbourne — almost every month — for the next 15 years is an enormous challenge.

The second challenge facing our cities is unsustainable development. As a region, Asia and the Pacific have achieved spectacular economic growth and poverty reduction.

Producing over 80 per cent of the region's GDP, cities have been at the forefront of this economic growth. However, this growth first strategy has come at a cost. Cities account for 67 per cent of all our energy use, 71 per cent of all our green house gas emissions and generate 300 million tons of solid wastes per year. Our people suffer from congested roads, energy and water shortages, and air and water pollution.

While coping with the impacts of unsustainable development, we are faced with the third challenge: that of climate change. Over 50 per cent of Asia-Pacific's urban residents live in low lying areas and are at risk from extreme weather events such as floods and typhoons. The frequency and intensity of climate related disasters will increase — affecting our economic, energy, water and food security. While natural disasters affect both the rich and the poor, it is the poor who suffer most because they do not have the assets to cope with risks and vulnerabilities.

The fourth challenge is most daunting: the urbanisation of poverty, manifested by slums and squatter settlements. Thirty-five per cent of urban residents of the region live in slums. Urban Asia includes persistent disparities in income as well as in access to services and opportunities. Without addressing this, the grievances that stem from these disparities will sap the hope we presently hold for our urban future.

Despite these challenges, our vision for the future is one where cities are socially just and inclusive, environmentally sustainable, and increasingly, resilient to climate change and other shocks, while being the engines of economic growth.

To get there, we need to reform urban planning and infrastructure design to make our cities compact and eco-efficient. We need to maximise the benefits of mass transit and transport systems. We need to invest in eco-efficient buildings and infrastructure, clean water, sanitation, waste management and smart energy grids.

Secondly, we need to engage civil society and businesses to promote more sustainable life-styles. The private sector needs to embrace the well-being of our people and our planet, while generating profits. Our prosperity must be shared. Moreover, up-scaling of innovative solutions, green infrastructure technology and services will not only improve the lives of the poor, it could also turn them into pioneers of a low-carbon and sustainable future.

Lastly, we need to ensure that the poor have access to more secure housing and strengthen their ability to recover from disasters through community-based finance, micro-insurance schemes and social protection. Adopting inclusive and sustainable development strategies will not be easy. It will require transforming the way we plan, manage and govern our cities. The governments of Asia and the Pacific, at both the national and local levels, can work to

promote integrated approaches to urban governance and development.

We can make our cities liveable places of shared prosperity, social progress, cultural vibrancy and knowledge and ecological sustainability. If we get it right in Asia Pacific, we get it right for two-thirds of humanity. And our children will inherit a promising future.

WOMEN

HINDU 27.6.11 WOMEN

A law that thwarts justice

Prabha Sridevan

Section 15 of the Hindu Succession Act that determines the order of succession in the case of a Hindu woman who dies intestate should be amended for, it reflects an entrenched system of subjugation of women.

The family that had sent a young woman back to her parents after her husband's death, surfaced when she died. There was a contest between her mother and the husband's sister's sons for her property. The mother lost all the way up to the Supreme Court, which noted that it was a “hard case.”

“What women can expect from Courts... is a qualified degree of equal treatment,” wrote Professor Wendy Williams in “The Equality Crisis: Some Reflections on Culture, Courts, and Feminism,” published in 7 Women's Rts. L. Rep. 175 (1982), adding that “women's equality as delivered by Courts can only be an integration into a pre-existing, predominantly male world.”

This is so because, though the courts may be well meaning and earnestly intend to uphold equal rights for women, they can only reflect the shared life experience of individuals. This takes a largely male hue, not only because the judgment-deliverers are predominantly male, but also because society systemically supports male supremacy. And this systemic slant shades the thought processes that lie behind laws too, and the courts apply the laws in their judgments.

The skewed reality in which gender is positioned in the social, political, economic and cultural transactions shows up the fact that law is not gender-based — sometimes it is not even gender-neutral. Gender-neutrality will not be enough if it merely maintains the status quo — which is nothing but the perpetuation of gender discrimination. Women need, and must have, affirmation of their equality.

If enactment of laws was sufficient to protect women, then women in India are on velvet. But reality bites. The law is observed in the breach, or the law is not effectively enforced by the law-enforcement agencies, or judicial redress lies beyond the woman's horizon, or yet, the evil is seen as an accepted practice. Or women get beaten by “hard cases.”

Look at this particular “hard case,” which is reported in (2009)15 SCC Page 66 Omprakash and Others Vs. Radhacharan and Others. In 1955, Narayani Devi married Deendayal Sharma, who died within three months. Soon she was driven out of her matrimonial home. She lived with her parents, earned a living and died on July 11, 1966. She left behind a substantial estate, but wrote no will. Both her mother and her husband's family claimed a succession certificate. The Supreme Court considered the scope of Section 15 of the Hindu Succession Act and held against the mother.

Section 15(1) says that if a Hindu woman dies without leaving a will, her property will devolve in the following order. The first in the order are her children, children of a predeceased child and her husband. If none of these persons is available, then it will go to the next in line: the

heirs of the husband. Standing behind them will be the heirs of the father and the mother. Section 15(2) says that notwithstanding these provisions, if the woman is not survived by a child or the children of a predeceased child, then any property she inherited from her father or mother will go to the father's heirs, and any property she inherited from her husband or father-in-law will go to the husband's heirs.

The Supreme Court held that Section 15(1) lays down the ordinary rule of succession; Section 15(2)(a) only carves out an exception to Section 15(1). It observed that the law is silent on a Hindu woman's self-acquired property, and such property cannot be considered as property inherited from her parents. The court said: “This is a hard case... But then only because a case appears to be hard would not lead us to invoke different interpretation of a statutory provision, which is otherwise impermissible. It is now a well settled principle in law that sentiment or sympathy alone would not be a guiding factor in determining the rights of the parties which are otherwise clear and unambiguous.”

In Narayani Devi's case, the mother's claim was not based on sympathy or sentiment, but logic and principles of fairness, equity and justice. The Supreme Court, however, found that the law was a hurdle to her claim.

Justice A.M. Bhattacharjee wrote thus in *Modern Hindu Law Under Constitution*: “Under the provision of Section 15(1) read with sub-section (2) in the absence of children, the order of succession in the case of a female Hindu would vary according to the source of acquisition of property.” He asked why the source of acquisition should be a determinant in the case of a Hindu woman when it is not so in the case of a Hindu man. “Unless we still want to perpetuate in a somewhat different form the old outmoded view that ownership of property cannot be full but must be somewhat limited.”

A mother shares equally with the children and the widow when a son predeceases her. But when a married daughter dies, the mother ranks after the husband's heirs. This is the law as enacted in 1955-1956. Hindu

law as it existed before the Constitution has been the subject of criticism for the glaring inequalities that it perpetuated. But we find lurking inequalities even in subsequent enactments.

Ironically, some of the ancient texts have a more pragmatic and equal approach in such cases. Stridhana, according to some texts, is categorised as technical and non-technical. Non-technical stridhana is that property which is acquired by a woman through her skill and mechanical arts (Vasishta). In the case of a woman who has no issues, the heirs to stridhana are her husband, mother, brother or father (Devala). Aprajaayaa haredbhartaa mata bhrata pitaapi va, says Devalasmrti (A.D. 600-900).

In the 21st edition of Principles of Hindu Law (Mulla), it is observed that Section 15(2) “seem to have been made on the ground that they prevent such property passing into the hands of persons to whom justice would require it should not pass and on the ground that the exceptions are in the interest of the intestate herself.” If the intention of this provision is to prevent property from devolving on persons to whom justice “would require it should not pass,” then the family that had refused to take care of Narayani should not have got anything.

In India those who own property do not always write a will. Narayani did not. She did not know the law of succession. She certainly would not have wanted her husband's sister's children to grab her earnings. If her spirit is floating around, it must be a very unhappy one. In India if a woman loses her husband because of death, desertion or divorce, there is a high probability that she will come to be with her parents. In the present day, many women have self-acquired property that they have earned because of their parents' support. These are the ground realities.

Section 15 should be amended. The order of succession should be altered. In addition to “inheritance,” other modes of acquisition from parents or because of parents could be added.

Justice Bhattacharjee's criticism of Section 15 has been referred to above. Decades after his book was written, the injustice continues. Neither biological nor social differences shall corrupt the ideal of equality or the reality of equality. In this case the law views the man's estate and the woman's estate through different spectacles: her autonomy over her property is less complete than his. How else can one explain the injustice? There are many more such cases. The law should not stand in the way of justice.

Whether the Supreme Court could or should have addressed the gender discrimination, and seen that the apparent “hardness” of the case was only the outer layer of an entrenched system of subjugation of women, and unpeeled the layers, are questions that need not be argued now.

Professor Williams' article says: “But to the extent the law of the public world must be reconstructed to reflect the needs and values of both sexes change must be sought from legislatures rather than courts. And women whose separate experience has not been adequately registered... are the ones who must seek the change.” It is time that this law is made gender-balanced.

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