

Agenda for Governance in India at the National Level

Consultation Paper for SAARC Social Charter

1. Electoral Reforms

a) Complete Candidate Disclosure

Rationale

The present law (Ordinance promulgated in August 2002) provides for reasonable disclosure. Financial disclosures will focus on the candidate's credibility and tax compliance, and will lead to altered behaviour of parties in the form of choosing better candidates with clean record and accountable assets and income.

Action

Either enact a law in consonance with Supreme Court judgment of May 2, 2002

Or

Repeal section 33B of the Ordinance and allow the Election Commission's Order of June 28 to take effect; with removal of discretionary powers of returning officers through amendment of Rule 4 of Conduct of Election Rules, 1961.

b) Political Funding Reform

Rationale

Accountable and legitimate political party expenditure and campaign finance is at the heart of the fight against corruption.

Action

The present Bill (THE ELECTION AND OTHER RELATED LAWS (AMENDMENT) BILL, 2002) before Parliament provides for party accounts disclosure and public auditing, full tax exemption for political contributions, public funding in kind (electoral rolls, voter slips etc), repeal of the obnoxious provisions of Explanation 1 of Section 77 of RP ACT, 1951 and allocation of time in government as well as private electronic media. This is an extremely positive initiative, and the Bill needs to be enacted quickly with one major improvement. Given our political culture, there is always a danger of receiving public support (media time etc), and disclosed contributions, as well as undisclosed funding. To check undisclosed funding and illegitimate expenditure, we need to make disclosure obligatory for the donor, with severe penalties for non-disclosure of any amount in excess of Rs 20,000. This disclosure should be made to tax authorities and Election Commission, and violations will invite not only stiff monetary penalties, but prosecution and jail term. Since 100% tax exemption is proposed for contribution, such tough disclosure norms are fully justified. They are necessary because a donor is unlikely to risk penalties, and will tend to comply with disclosure norms.

Once such a law is in place, we can examine its impact in practice for some years, and move towards public funding of elections. A suitable model can be evolved. However, public funding will work best with proportional representation.

c) **Political Party Reform**

Rationale

Political recruitment has suffered a great deal, and bright young people are no longer attracted to politics. Centralized functioning of parties is imposing enormous burden on leadership to manage the party bureaucracy, leaving little time for evolving sensible policies or governance. Party leaders are helpless in candidate selection, and the choice is often between Tweedledom and Tweedledee. One important reform to improve the quality of politics and restore credibility is a law to regulate political parties' functioning, without in any way restricting leadership choice and policy options.

Action

A law needs to be enacted to regulate political parties in four respects:

- Membership and disciplinary action
- Leadership choice by regular, secret, democratic ballot, with formal processes to challenge leadership without fear of retribution.
- Transparency and public auditing of party funds and expenditure
- Choice of candidates for elective office to be decided by members or their elected delegates through secret ballot.

The provisions can be similar to Article 21 of German basic law and federal law to regulate parties.

d) **Strengthening Anti-defection Provisions**

Rationale

The Tenth Schedule, added through the 52nd Amendment, has checked the menace of defections to some extent. However, there are three serious problems.

- Mass defections continue to be rewarded.
- Discretion of presiding officers is undermining democracy (eg: UP BSP defection case).
- And use of whip on matters not affecting survival of government has reduced legislatures to rubber stamps of parties.
- Suitable changes in the anti-defection provisions are necessary to correct these distortions.

Action

Amendments to X Schedule on the following lines

- i) Party split to be recognised only after due process (as prescribed) with reasonable public notice (about a month at least), and Apex General Body debating and deciding on the issue.
- ii) Disqualification to be decided by the Election Commission

- iii) Even if the split is recognized, the splitting group shall not be eligible for ministerial office for at least one year.
- iv) Anti-defection provisions to apply only in cases of voting on a confidence or no-confidence motion, and finance bills. The provisions shall not apply for voting on ordinary legislation and other division, and in upper houses.

e) **Eliminating Polling Irregularities**

Rationale

There is evidence to suggest that the electoral rolls are severely flawed, and false voting by personation is rampant. As a result, many decent candidates are at a disadvantage, when compared to those who muster money and muscle power, and with trained cadres. The compensatory errors of rival candidates neutralize each other, and the final outcome is usually unaffected. However, given the local electoral compulsions in a flawed system, the parties are forced to look for 'strong' candidates who can manipulate the polling process, thus undermining and discrediting democracy and governance.

Action

Simple procedural improvements on the following lines will substantially improve purity of elections.

- Post office as nodal agency for voter registration - improving access and transparency
- Mandatory re-polling whenever tendered votes (proof of rigging by personation) exceed a fixed percentage (say 1 to 2%) of votes polled in polling station. (this will significantly reduce the incentive for rigging)
- Compulsory voter photo-identity cards to be issued to all voters

f) **Proportional Representation**

Rationale

The first-past-the-post (FPTP) system we have adopted led to several distortions:

- Politics of fiefdom at constituency level forcing parties to rely on local strongmen
- Astronomical election expenditure for vote buying and other illegitimate purposes
- Weakening of party platform and ideology, reducing elections to private power games
- Marginalization of national parties in several states where their voting percentage falls below a threshold
- Dominance of regional parties in several pockets
- Inability of all political parties to attract and nurture best talent
- Difficulties of minority representation, leading to ghetto mentality, backlash, and communal tension
- Permanent reservation of constituencies in order to provide fair representation to SCs, or regular rotation undermining leadership

Action

Adoption of mixed system of election combining FPTP system with proportional representation. This will broadly be based on German model, and will have the following features.

- The overall representation of parties in legislature will be based on the proportion of valid vote obtained by them.
- A party will be entitled to such a quota based on vote share only when it crosses a threshold, say 10% of vote in a major state, and more in minor states.
- 50% of legislators will be elected from territorial constituencies based on FPTP system. This will ensure the link between the legislator and the constituents
- The balance 50% will be allotted to parties to make up for their shortfall based on proportion of votes.
eg 1): If the party is entitled to 50 seats in legislature based on vote share, but had 30 members elected in FPTP system, 20 more will be elected based on the party list.
eg 2): If the party is entitled to 50 seats based on vote share, but had only 10 members elected in FPTP system, it will have 40 members elected from the list
- The party lists will be selected democratically at the State or multi-party constituency level, by the members of the party or their elected delegates through secret ballot.
- There will be two votes cast by voters - one for a candidate for FPTP election, and the other for a party to determine the vote share of the parties.

Note: PR system can be effective only after internal functioning of political parties is regulated by law. Otherwise, PR system will give extraordinary power to party leaders and may prove counterproductive.

g) Enhancing Women's Representation**Rationale**

There is overwhelming demand for fairer representation to women. However, the present Bill is both controversial and flawed. Reservation of constituencies with rotation of seats is both unpopular with legislators, and impractical. Such rotation will mean unseating of most incumbents in every election, leading to several problems

- The women elected will not be able to establish a political base
- Proxy women candidates (family members and close confidants of incumbents) will become a dominant feature, leading to tokenism without empowerment.
- If an incumbent is sure to lose the constituency in rotation, there will be no incentive to perform well

Action

An alternative Bill needs to be enacted as law.

The political parties should, by law, nominate women candidates in a third (or any other proportion prescribed by law) of the constituencies.

Constituencies will not be reserved, and there will be no rotation. Each party will determine its nominees taking into account its own compulsions and local political realities.

- In order to ensure that parties put up women candidates in all regions and sub-regions in fair numbers, and do not nominate them only in weak constituencies, a group of constituencies (say, three parliamentary constituencies for State Assembly; and the State for Lok Sabha) shall be the unit for women's nomination.
- If the number of women candidates of a party falls short of the prescribed percentage, for the shortfall of every woman candidate, two male candidates of the party shall lose the party symbol.

h) **Direct Election of Head of Government in States and Local Governments**

Rationale

Election costs are skyrocketing. Candidates spend money in anticipation of rewards and opportunities for private gain after election. Legislators perceive themselves as disguised executive, and chief ministers are hard pressed to meet their constant demands. Postings, transfers, contracts, tenders, toll gates, parole, developmental schemes, crime investigation - all become sources of patronage and rent-seeking. No government can survive with honesty under such circumstances. While the legislators never allow objective and balanced decision-making by the executive, in the actual functioning of legislation their role has become nominal and largely inconsequential. This blurring of the lines of demarcation between the executive and legislature is one of the cardinal features of the crisis of our governance system. Therefore, separation of powers, and direct election are necessary in States and local governments. At the national level, such a direct election is fraught with serious dangers. Our linguistic diversity demands a parliamentary executive. Any individual seen as the symbol of all authority can easily become despotic, given our political culture. But in states, separation of powers poses no such dangers. The Union government, Supreme Court, constitutional functionaries like the Election Commission, UPSC, and CAG, and the enormous powers and prestige of the Union will easily control authoritarianism in any state.

Action

We need to adopt a system of direct election of the head of government in states and local governments.

- The legislature will be elected separately and directly
- The ministers will be drawn from outside the legislature

- The legislature will have a fixed term, and cannot be dissolved prematurely except in exceptional circumstances (sedition, secession etc) by the Union government.
- The head of government will have a fixed term, and cannot be voted out of office by the legislature.
- Any vacancy of office will be filled by a due process of succession.
- The elected head of government will have no more than two terms of office.

2. Federalism and Local Governments

- a) Periodic review of the Seventh Schedule to facilitate changes in Union-state jurisdiction to suit the requirements of changing times
- b) Clearer separation of powers between Union and States by further subdividing list III subjects (concurrent list), and providing for demarcation with minimal overlap
- c) Special powers to the Union to preserve unity and national integrity
 - Terrorist offences to be under Union jurisdiction
 - Inter-state trade
 - Inter-state water resources
 - Protection of linguistic and other minorities
 - Equal employment and educational opportunities to all across regions.
- d) Fiscal devolution: All fiscal devolution to be non-discretionary through Finance Commission
- e) Centrally sponsored schemes to be abolished, and lumpsum grants given to States, with the exception of a few critical areas: eg:
 - Population control
 - A few critical health schemes
 - A national testing board for comparing educational standards
 - A fund for improving access to judiciary and enhancing judge:population ratio
 - A fund for expansion and modernization of police forces
- f) All India Services: Indian Judicial Service to be created for ensuring higher standards of recruitment and impartiality in trial courts. This will also serve as recruiting ground for higher courts.
- g) Abolition of nominated governors: Governors will either be directly elected chief executives, or a constitutional head of state will be elected by state legislature and local governments (on par with the President)
- h) Legislative jurisdiction: Removal of governor's power to reserve a Bill for President's assent under Article 200, or severely limit the power and fix a time limit of 60 days for President's assent or otherwise.
- i) Amend Article 243 to make it mandatory for the States to transfer to local governments the subjects listed under Eleventh and Twelfth Schedules
- j) Incorporate local government subjects (11th Schedule and 12th Schedule) in 7th Schedule, giving such division of powers a mandatory status

3. Judicial Reforms

- a) A National Judicial Commission with powers of appointment and removal of higher judiciary. Repeal of Articles 124(4) and 217(1)(b) relating to impeachment of judges
- b) Writ jurisdiction to be more focused to life, liberty and equality before law
- c) Limited appeals to higher courts - only constitutional matters and writs to be heard by Supreme Court; and limited appeals to High Courts
- d) Guaranteed right to time-bound justice - say 1 year in criminal cases, and 2 years in civil cases. In case of appeals, 6 months in criminal cases, and 1 year in civil cases.
- e) Substantial amendments to civil procedure code to facilitate speedy trials
- f) Substantial amendments to criminal procedure code.
- g) Confessions before a police officer to be admitted as evidence
- h) A shift from adversarial system of criminal justice to inquisitorial system
- i) A new police Act to provide for a separate, and independent police force for crime investigation in each state insulated from political vagaries.
- j) Independent prosecution commission to supervise such a police force

4. Self-correcting Institutional Mechanisms

- a) A right to information law with simple, accessible procedures, minimal exemptions, short processing time, and penalties for non-compliance.
- b) Deregulation and simplification of rules and procedures :
 - Identify unnecessary regulations and laws and repeal them
 - Improve, simplify and make transparent procedures, in respect of those regulations and services, which are still relevant.
 - Specify levels of responsibility for each official in the hierarchy, so that accountability becomes real and meaningful.
- c) A Lok Pal with autonomy and substantive powers. Lok Pal's directions to be binding
- d) An independent CVC to control corruption; removal of single directive to ensure impartial and independent enquiry
- e) Independent appointment of constitutional functionaries - by a collegium similar to Judicial Commission
- f) Check against abuse of constitutional offices. A category of constitutional offences with penalties to be specified; an independent mechanism to investigate such offences.
- g) Citizen's Charters with following provisions for all Union services:
 - Clearly laid down simple procedure for obtaining services
 - Clear delineation of responsibility
 - Well-defined and measurable performance standards
 - Compensation to citizen for every day's delay
- h) The key requirements to enforce accountability is plurality of civil society institutions and citizen assertion. We need to create enabling climate for citizen activism through the following measures

- An enabling, liberal, citizen-friendly central cooperative law
- Full income-tax exemption for contributions to non-profit organizations
- Removal of all fetters and controls in respect of societies and trusts

5. Civil Service Reforms

- a) Civil Service Boards to recommend key public appointments (postings)
- b) The government shall choose one from the panel sent by the Civil Services Board
- c) A subject committee of Parliament to confirm the appointment through public hearings
- d) Once appointed, the functionary to have guaranteed tenure of 3 years; to be removed or transferred only on grounds of proven incompetence or corruption.
- e) Article 311 to be amended to make it applicable only for removals and dismissals
- f) Prohibition of court's jurisdiction except on grounds of equality before law

Agenda for Governance at the State Level

Consultation Paper for SAARC Social Charter

1. Empowerment of Local Governments

- a) **Local Government Electoral Reforms:** These are under the control of state legislatures.
- b) **Funds Transfer**
- Non-discretionary funding
 - 50% of the untied funds available to the State (apart from salary grants)
 - State budget to show 'District Schemes' separately for all the 29 & 18 subjects listed in 11th and 12th Schedule
 - Separate budget document for District-wise schemes
 - All amounts in budget for subjects listed in 11th and 12th Schedules to be transferred as block grants separately for salaries and other expenses
 - All State Finance Commissions to be automatic with no additional conditions
 - Wide latitude in taxation at local level
 - All taxes, duties and cesses assigned to local governments and collected by State should pass to them automatically and promptly.
 - Additional Block Grants to local governments on per-capita basis, suitably adjusted to give weightage to population and backwardness
- c) **Financial Powers of Local Governments**
- The District panchayats should have powers of re-appropriation from one item to another within the district allocation (for the subjects listed in 11th and 12th Schedules)
 - No savings of one district shall be diverted to another district
- d) **Fiscal Prudence**
- Savings under non-recurring (capital) items shall not be diverted by local governments for recurring expenditure
 - Savings on recurring expenditure can and should be diverted to non-recurring expenditure
 - Statutory checks by strengthening local audit
 - Mandatory balancing of revenue budget
 - Capital grants and loans to be utilized only for asset building
- e) **Functionaries**
- Local appointment and disciplinary action
 - Block grant from State to cover wages
 - Transfer of all staff connected with transferred schemes under full control of local governments

- Local government services to be de-provincialized and placed under local control. The existing employees' services can be protected by law.
- State Pay Revision Commission should not deal with local government staff
- If need be, there can be local government pay revision commission, which may only indicate a model set of scales of pay related to income of local governments
- Similar provisions should apply to aided institutions. Grants-in-aid shall be actuals paid, subject to ceiling of government scales.
- There should be statutory 'District Selection Committees' for recruitment, and District Staff Committees for administrative appeals and grievance redressal.
- The relationship between District panchayat president and the chief executive officer should be similar to that between the Chief Minister and chief secretary
- The standing committee of panchayat to have all powers of sanctions to act as a safeguard against abuse of power

f) State's Role in Functionaries

- Recruitment and training above a certain level
- Abolition of State departments relating to local subjects to eliminate the possibility of line control
- Convert such departments into technical manpower pools, whose professional services can be sought by the local governments on payment of a reasonable fee
- The State functionaries in respect of subjects under State control shall be posted only after the names of officials are cleared by a permanent standing committee comprising of legislators and representatives of local government concerned. (1:1 ratio)

g) Functions

- All subjects listed in 11th and 12th schedules shall be transferred to local governments
- Some subjects can be divided with clear demarcation of jurisdiction. No dual control shall be allowed.
eg (1): School education can be divided to give management of schools, control of staff and maintenance to local government; while setting standards, syllabus, text books and examinations will be at State level.
eg (2) Similarly, management of primary health centres can be entrusted to local governments, while technical standards and protocols will be decided at the state and national levels. Taluk and district hospitals, and procurement of drugs will remain at the State level.

h) Subsidies

- All subsidy programs should be transferred to local governments.
- Local government shall have the discretion to redesign, reduce or abolish a subsidy, but not to add to the subsidy.

- Resources so saved shall be utilised by the local government for other programmes, subject to broad policy guidelines of State government.
- Strict auditing of utilization of all such subsidies.

i) **Ward Committees**

- The Constitution makes it mandatory to form ward committees in each municipality with over 3 lakhs population (Article 243 S). In most states, they are not activated and empowered. The following steps will significantly enhance popular participation in urban local governments.
- A wards committee for every 25000 - 50000 population.
- Functions like local road maintenance, garbage clearance, street lighting etc., to be entrusted to ward committee.
- Functionaries responsible to such functions should be under the control of ward committee.
- Salaries and maintenance expenditure to be borne by the ward committee
- Ward committee will retain a share of the property taxes collected locally, depending on the locality. eg: Poor areas will retain 100% taxes. Middle-income areas will retain 2/3 of all residential property taxes (non commercial). Affluent areas will retain 1/3 of all residential property taxes (non commercial).
- The balance tax amount will go to the central pool for the Municipal budget.
- The ward committee may raise other resources through donations and other contributions.

j) **Other Constitutional Provisions**

The committee for district planning (Art 243 - ZD) and the committee for Metropolitan development authority should be established (Art 243 - ZE). However, many states have neglected these provisions, or created supra district bodies with real power in the hands of district legislators and State ministers. This is patently unconstitutional. Rigorous efforts to enforce these constitutional provisions, and genuine empowerment of both these committees will allow genuine district planning and implementation.

k) **Institutions for Public Scrutiny**

- Strict auditing and public disclosure norms - by law
- Public disclosure of assets and income of local government leaders - by law
- A body of independent statutory Ombudsmen (based on Kerala pattern), whose directives are mandatory
- Local tribunals for swift punishment for wrongdoing.
- Disqualification provisions for criminality, non-disclosure, or wrongdoing to be enforced by the State Election Commission.

2. Appointment of Constitutional Functionaries

- The State Finance Commission, State Election Commission, State Public Service Commission etc. shall be appointed through a transparent process by a committee

comprising the Chief Minister, Speaker of the Assembly, Minister concerned, Leader of Opposition, Chief Justice of the High Court, and the incumbent functionaries.

3. Tackling Corruption and Promoting Greater Accountability

- c) Right to information law in each state with simple, accessible procedures, minimal exemptions, short processing time, and penalties for non-compliance.
- d) Citizen's charters for all public services with clear penalties for every day's delay.
- e) An independent anti-corruption agency on the lines of the Independent Anti-corruption commission of Hong Kong with clear statutory authority, independence and control over Anti-corruption Bureau (ACB)
- f) Deregulation and simplification of rules and procedures :
 - Identify unnecessary regulations and laws and repeal them
 - Improve, simplify and make transparent procedures, in respect of those regulations and services, which are still relevant.
 - Specify levels of responsibility for each official in the hierarchy, so that accountability becomes real and meaningful.

4. Civil Service Reforms

- a) **Placement of Key Officials to be Transparent and Accountable**
 - Identification of key public offices.
 - A panel to be prepared by the Civil Services Board drawing from serving officials, experts, private managers, academics and others. The monopoly of serving officials should cease by appropriate amendments to rules.
 - The government to finalize a name from the panel.
 - The name to be approved by the subject committee of legislature through public hearings. In case of officials serving in district administration, local government representatives will comprise half the committee.
 - The official so appointed will have a guaranteed tenure of, say, three years. After the term he or she may go back to civil services or private employment.
 - Tenure will be shortened only for reasons of incompetence or corruption.
- b) **Staff Review and Redeployment**

There is extremely skewed deployment of manpower - too few in key areas like education and health care, and too many clerks, drivers and peons.

 - A review of staffing requirements by a statutory commission
 - An enabling legislation to re-deploy staff to suit the changing requirements, without altering wage and service conditions.
 - Facilities for retraining where required either in public sector, or by outsourcing such services.
- c) **Culture of Decision Making**

All administrative agencies are now based on a vast army of clerks, and the dominant creed is risk-avoidance and obscure lines of responsibility.

- Each agency and sub-agency to be reorganized on functional basis.
- Each unit to have clearly defined responsibility
- Performance standards, job charts and work output norms to be quantified
- Incentives to be provided based on performance.
- A monitoring mechanism to review and reward performance, and bring in correctives.
- Each unit will have a decision maker. Where necessary, there will be one or more secretaries to retrieve information. There will be no clerks to put up files. The decision maker will be the custodian of all the information and documents.
- The systems of peons and drivers will be phased out completely within 5 years.

5. Stake-holders' Empowerment

Wherever the stake-holders of a public service are clearly identifiable, and the service is quantifiable, there should be elected statutory stake-holder committees managing that service.

- Such committees should be elected by secret ballot. The elections shall be on non-party basis.
- All funds in respect of that function devolve on them - either through right to collect user charges (eg: water cess) or government grant (school education)
- The functionaries in respect of that service shall be accountable to the stake-holder committee.
- They can mobilize other local resources
- They shall function under the overall umbrella of the local government (panchayat or municipality)
- The areas amenable to such stake-holder empowerment include:
 - School education
 - Water users in irrigation
 - Marketing committees
 - Fair price shops
 - Water-shed development
 - Joint forest management

6. Redefining Government's Role

- a) State Government should accept responsibility for key areas and evolve standards, norms, goals, plans and schemes for implementation with adequate budgetary provisions. These areas should necessarily include:
 - Public order
 - Crime investigation
 - Speedy and efficient justice
 - School education
 - Primary health care

- Basic infrastructure
 - Natural resource development
- b) In respect of other areas like higher education and hospital care, there should be flexible models of public-private partnership, with public funding essentially to serve the poorer sections.
- c) The State should completely eliminate all restrictive provisions relating to cooperatives and societies, so that all fetters on legitimate civil society action and people's initiatives are removed. Significant changes in the respective laws are required.
- d) The existing laws and rules need to be constantly reviewed by a permanent commission for regular repeal and changes. Sun-set clauses are needed in all legislations
- e) **Land Administration**
 After independence, land survey and record maintenance and updating have suffered grievously. Property rights are therefore unclear and land sharks and criminals are having a field day. Recent efforts to computerize land records in several states only improve access and retrieval of data, but do not improve the quality of information, or update it.
- A comprehensive land survey programme should be taken up in each state in a time-bound manner of, say, 3 years. This requires statutory mechanisms to give the process legal sanctity, and to enforce record of rights.
 - Once all records are updated, there should be a mechanism for constant updating by statute with adequate staff and simple processes. Since these pertain to land rights, the costs can be recovered by user fees.
 - After every decade, there must be a fresh survey to further update all information, and settle ownership rights.
- f) **Convergence of Services**
 There are certain agencies whose presence is ubiquitous, and which have a culture of non-exploitative public service.
 eg: The Post offices.
- Special programmes should be designed to ensure convergence of most basic services through such outlets as post-office, panchayat or municipality. The services which can be provided may include:
 - Voter registration
 - Ration cards
 - Passport processing
 - Accessing land records
 - Social security pensions
 - Student scholarships etc.

7. Police and Judicial Reforms

a) Increase in the Number of Trial Courts

We have about 11 judges per million population in India, whereas in the west the norm is about 110 judges / million.

- We need to increase the number of trial judges, and have a court for every 50,000 population. We may need to have about 1000 more judges in every major state. These will be the first class magistrates.

b) Gram and Nagar Nyayalayas

The Law Commission (114th report) recommended local courts as part of judiciary for speedy and accessible justice. The features of such a local court will be as follows:

- It will serve a population of about 15,000 in rural areas, and 25,000 in urban areas.
- It will be a part of judiciary.
- An honorary magistrate will be appointed by the District judge for a three-year term.
- The local court will have exclusive and limited jurisdiction, of say Rs. 50,000 in civil cases, and 6 months imprisonment in criminal cases.
- The court shall adopt summary procedures.
- The cases will be tried in the local language.
- The magistrate can visit a locality to collect evidence.
- This court shall deliver its verdict within 90 days from the date of complaint.
- Appeals can be preferred to the next higher court by those aggrieved by its orders.

c) Weeding Out Corrupt Judges

Maharashtra High Court did admirable work in identifying and removing (by compulsory retirement or removal) corrupt or incompetent judges in subordinate judiciary. Over 150 such judges were removed, and the Supreme Court upheld the actions of the High Court. Recently Rajasthan High Court is taking similar steps.

In each High Court such steps need to be initiated to erase the perception of growing corruption in judiciary, and maintain public confidence and credibility.

d) Coterminous Police Jurisdiction

The police station should have a jurisdiction coterminous with the first class magistrate's court. This will facilitate better coordination in prosecution, framing of charges, crime investigation, and trial.

e) Functional Separation of Police Forces

The State police combine in themselves many functions, including crime investigation; public order and riot control; traffic regulation, patrolling and local duties; security of VIPs, guard duties etc. Such a combination has led to many unsavory and inefficient practices

- We need to separate police forces into three separate, non-transferable wings
- Crime investigation wing will be independent, and under the control of a State level agency comprising of jurists, professional police officials, and experts.

They will be appointed in the same manner proposed for constitutional functionaries, by a collegium. The State agency and its local agencies will be fully empowered to supervise, monitor, control and direct crime investigation and prosecution. The agency will only report to the legislature through annual reports.

- Public order wing will be controlled by the State government, and will be in charge of controlling riots and maintenance of peace and order. When necessary, this wing will come to the aid of crime investigation wing or local police (described below).
- Local police, under the control of local government (municipality or panchayat) will be in charge of traffic regulation, patrolling and other local duties.

8. Strengthening State Legislatures

The legislature today is virtually powerless to monitor the executive's functioning, short of dismissing the government through a vote of no-confidence. Legislature's role is largely limited to supplying ministers, and power-play and ministerial office have become the dominant preoccupations of legislators.

The legislators have no discretion or role to substantially influence government's legislative agenda, or affect the outcome of voting on the floor of the House. In the absence of such a positive legislative role, individual MLAs see themselves as disguised executives influencing executive decisions, and distributing patronage. Since the government's survival depends on the majority support of MLAs, the executive has no choice but to yield to legislators' demands on day-to-day implementation, contracts, tenders, postings, transfers, crime investigation, prosecution, parole and myriad other issues.

However, legislators are shrewd and public-spirited politicians, who respond to risks and rewards. If incentives of political advancement, enhanced popularity, career satisfaction, recognition and respect for promoting public interest, and genuine pride in promotion of public good are institutionalized for legislators through systemic changes, the nature of governance will be radically transformed.

The answer therefore lies in making legislators genuine partners in governance. Once they have open, legitimate and significant say in public affairs, the urge for clandestine, illegitimate and substantial control of public purse and executive decisions for personal gain will be curbed to a large extent.

The answer lies in empowered legislative committees on the following lines:

- Constitution a legislative committee for each major subject, with about 15 - 20 committees in a major state. These will be in addition to the constitutionally mandated committees.
- Each MLA shall be a member of one of these committees. A member, not a minister, shall chair the committee.

- The ministers and civil servants responsible for the subjects shall be accountable to the committee.
- There shall be open public hearings in the glare of press and television. The ministers and civil servants shall have to justify their policy and explain their decisions and actions.
- All key appointments of civil servants in the departments and agencies pertaining to the subject shall be cleared by the committee through public hearings.

Once such empowered committees are in place, legislature will be vibrant, democratic, responsive and independent. People, the media and civil society institutions will have space to advocate policy changes and oppose corrupt civil servants. Legislators' professionalism, political skills and competence will be on display, and there will be incentive for better performance in their legitimate sphere of activity. Only then can other governance reforms and decentralization be truly institutionalized through genuine support of legislators.
