

**REPORT**

**OF THE**

**ONE MAN COMMITTEE**

**ON**

**GOOD GOVERNANCE**

**BY**

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## **I. Introduction**

The Government of Maharashtra, by its order No. Adm. Reforms 10.00/File No. 71/2000/(1)/18-A dated 20 December 2000 set up a one man committee on good governance. The committee has been given the following terms of reference:

- i) To prepare a framework of good governance within which the state government will be able to formulate its policies and programmes.
- ii) To prepare indicators or indices of good governance which can be used to assess the performance of the government.
- iii) To advise as to the short term and long term policies which may be adopted by the government to establish its commitment and loyalty to the concept of good governance.
- iv) To advise regarding the institutional changes which need to be made to implement the concept of good governance.
- v) To suggest the institutions and procedures which have become outdated and to suggest improvements therein or new directions therefor.
- vi) To advise whether it will be necessary to privatise or contract out certain services to better serve the consumers, and
- vii) To suggest concrete and specific ways in which non-developmental expenditure can be curtailed.

The appointment of this committee has not come a day too soon. In Maharashtra, leave aside the system of good governance, even administrative reforms have not been looked into by any committee after the Heble Committee appointed in 1968. The quest for good governance is on in a number of other countries though it has received peripheral attention in India so far. It is, therefore, noteworthy that at least two state governments, namely, the Government of Karnataka and the Government of Rajasthan have set up administrative reforms commissions.

The Committee held wide ranging discussions in 34 meetings which included meetings with Lok Ayukta and Upa Lok Ayukta, secretaries of various departments, heads of departments, field officers such as collectors, chief executive officers, municipal commissioners, divisional commissioners, Director General of Police, Director General of Anti-Corruption Bureau, Commissioner of Police, Mumbai, and

other officers as also various stakeholders such as non-government organisations (NGOs), media, prominent non-officials and opinion makers, members of the Indian Institute of Public Administration (IIPA) and similar other bodies.

This report is divided into ten sections, namely, introduction, the concept of good governance, legislative and institutional framework for good governance, maintaining law and order, making government transparent and accountable, civil service reforms, towards a citizen-friendly and open government, waging war against corruption, tax administration, enforcement and e governance, and summing up.<sup>1</sup>

It may be in order to refer briefly to the format of this report. The presentation of the report is not in a narrative form and a telegraphic form of presentation has been adopted consciously to bring out straightaway the points for action. It is hoped that such a presentation will help in quicker appreciation of the underlying suggestions and initiation of action thereon.

## **II. The Concept of Good Governance**

At the outset, it needs to be appreciated that the concept of good governance is much larger than mere administrative reforms in the conventional sense of the term. In fact, it covers much more ground and substance than administrative reforms. Good governance has much to do with the ethical grounding of governance and must be evaluated with reference to specific norms and objectives as may be laid down. It looks at the functioning of the given segment of the society from the point of view of its acknowledged stakeholders and beneficiaries and customers. It must have firm moorings to certain moral values and principles. A Mission Statement of good governance will thus read quite differently from the Mission Statement of administrative reforms.

Good governance, as a concept, is applicable to all sections of society such as the government, legislature, judiciary, the media, the private sector, the corporate sector, the co-operatives, societies registered under the Societies Registration Act, duly registered trusts, organisations such as the trade unions and lastly the non-government organisations (NGOs). Public accountability and transparency are as relevant for the one as for the other. It is only when all these and various other

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<sup>1</sup> A part of the report is based on a similar report prepared by the author for the Government of Andhra Pradesh.

sections of society conduct their affairs in a socially responsible manner that the objective of achieving larger good of the largest number of people in society can be achieved. However, in view of the terms of reference given to the committee, this report is confined to good governance in government.

This statement needs to be further qualified. The canvas of governmental activities is so large and all encompassing that it is impossible for a one man committee to address all the relevant issues within a span of a few months given to the committee to complete its task. The report does not, therefore, cover areas such as electoral reforms, guidelines for conduct of Ministers and so on.

The committee's report amply bears out the large scope for improving governance in all spheres of the functioning of the government. It is, therefore, necessary that a standing committee is appointed by the government to study the relevant issues department by department and organisation by organisation so as to make continuous recommendations on good governance for the consideration of the government. The issues in the decentralised sectors such as those pertaining to the panchayat raj institutions and municipal bodies themselves call for a similar in-depth study. It is hoped that the recommendations in this report will spur these efforts.

It must be admitted that there is widespread disenchantment with the functioning of state governments as also the central government. In the perception of a common person, the government is seen to be exploitative. From the viewpoint of the citizens, government epitomises corruption, inordinate delays, long-winded procedures, lack of transparency, and extreme rudeness and insensitivity, often bordering on callousness. As the experience shows, it is not easy to tame this wild animal. There are no short-cuts or easy answers. For any perceptible results to be achieved, the exercise will call for political and administrative will of the highest order, apart from all ingenuity, innovativeness and persistence, none of which have been particularly evident so far.

As the term good governance implies, it assumes that there is a government which would like to govern with a firm hand. Its writ must run and should be acknowledged and the people should not take the government for granted. In practical terms, it would mean the government taking all actions to retain its firm hold over people, their institutions and the situations arising from day to day. Looking around the country, not many governments would pass this test.

The foremost test of good governance is the respect for rule of law. As the saying goes, howsoever high a person may be, the law is above him and has to be considered supreme. The governance must be based on rule of law. Every lawfully established government must govern according to the laws of the land. All its actions must uphold the rule of law and any effort to take the law in one's own hand or to undermine the law by anyone, howsoever high and mighty he may be, must be dealt with speedily, decisively and in an exemplary manner. It is unfortunate that even after fifty years of Independence, one cannot say with confidence that the governance in most states is based on rule of law.

In any discussion on good governance, attention must be focussed on the primary responsibilities of the government. These must include the maintenance of law and order, administration of justice, and welfare of economically and socially weaker sections of society in terms of provision of safety net for them. Here again it is seen that, in its anxiety to do thousand and one other things, these primary responsibilities have been neglected over the years. It can truly be said that he who governs the least governs the best! If this principle had been followed in governance all these years, India would not have presented a picture of such squalor, filth, illiteracy and poverty even fifty years after Independence. The main question is whether we are prepared to learn lessons for the future from our experience of the past.

The principle of subsidiarity must become the guiding principle in the governance. This would imply doing things at the level at which they can be best done. Thus as much of legislative, executive and administrative actions must be decentralised as possible. No decisions must be taken at levels higher than the level at which they ought to be appropriately taken. Decentralisation of powers and functions must be adjudged on the basis of this criterion. As is evident, we have a long way to go to reach anywhere near such an objective, in spite of the 73<sup>rd</sup> and 74<sup>th</sup> amendments of the Constitution.

It has to be admitted that the governance in India has not changed much though over half a century has elapsed since Independence. We have certainly made some gestures and 'noises' such as adoption of citizen's charter, passing of (retrograde) laws on right to information, mouthing the platitudes of downsizing of the government and

promoting the *mantra* of public accountability and transparency. But, the impact of these measures is hardly perceptible to the common person.

There is a widespread disenchantment with the functioning of governments all over the country, irrespective of which political party is in power. It is not, therefore, surprising to see the anti-incumbency factor in operation in practically all elections in the states as also the centre. People are clamouring for a clean, open, transparent, accountable, corruption free and sensitive administration. As the discussion in this report would show, this is not as utopian as it may appear. Thus, it is necessary to underline that good governance can also be good politics.

Finally, it must be appreciated that the process of economic liberalisation and globalisation will not go far enough without adequate attention being bestowed on good governance. There has been a clamour of demand from foreign investors for transparency in decision-making in the government. Good governance can directly contribute to higher rate of economic growth. Thus, for example, according to the estimate of the UNDP report on South Asia 1999, if India's corruption level comes down to that of the Scandinavian countries, the gross domestic product will grow by 1.5 per cent and the foreign direct investment will go up by 12 per cent.

Civil service reforms have to be an important element of any programme for good governance. Downsizing of government has to be an important component of such a programme. Such reforms have been vigorously implemented in a number of countries. Thus in the United Kingdom, by 1994, 60 per cent of the civil servants had been transferred to the agencies and other organisations. In 1965, Japan had a total of 8,34,391 members in the civil service. By 1970, the number decreased to 1,92,793 and by 1991, the number decreased still further to 1,80,700. Singapore civil service comprises just 70,000 persons. In New Zealand, when the civil service reforms began, there were 88,000 civil servants. After the reforms, only 36,000 of them remained and most of them were employed in departments of welfare, justice and revenue. The New Zealand Government was able to effect such drastic reduction because departments were restructured, jobs redefined and accountability fixed.

Along with the downsizing, a number of other steps were taken by these countries to restructure and reform the civil services.<sup>2</sup>

As a part of downsizing the government, steps will have to be taken to privatise or outsource certain activities. The Fifth Pay Commission, whose report received very perfunctory attention at the hands of the governments both at the centre as also the states, except in regard to revision of pay-scales, allowances and other benefits to employees, had recommended certain criteria for identification of activities which could be privatised or outsourced. These included, among others, activities which are resource intensive, relatively discrete, subject to fluctuating work patterns and are subject to quickly changing market.

Needless to say, thriving and robust civil society is necessary for exercise of checks and balances in respect of good governance. A spate of public interest litigations by socially conscious and alert citizens have kept the government on its toes. The latest cases of its kind are the Enron controversy as also the deaths of a large number of tribal children due to malnutrition. Everything must, therefore be done to strengthen the civil society institutions.

### **III. Legislative and Institutional Framework for Good Governance**

Primary Responsibilities of the Government: World over, there is a talk of downsizing the governments. Further, in view of the serious financial constraints facing the State Government, the time has come to give a serious thought to the question of the primary responsibilities of the government on which main attention will have to be focused. Spreading the resources thinly, as in the past, will be counter-productive. A “Christmas Tree” or “hold-all” approach under which small outlays are provided for a large number of schemes and programmes in all sectors of the economy, adopted so far, will have to be jettisoned.

The primary responsibilities of the government can be briefly stated as law and order and police, adequate and prompt criminal and civil justice system, and protection of interests of economically and socially weaker sections of society. The government will also have to take the responsibility for provision of primary education, public health, and water supply, particularly in the rural and semi-urban areas. If these are

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<sup>2</sup> Government of Karnataka, *Karnataka Administrative Reforms Commission, Interim Report*, January 2001, pp.63-66.

fully taken care of, a number of the remaining activities can be left to be provided by the private or co-operative sectors. The State may step in to fill the gap only in sectors and activities which cannot be catered for by the private and co-operative sectors. Once this is accepted, the efforts for good governance can be more focused and properly targeted. It is recommended that the state government may prepare a working paper on this subject and publish it for eliciting views of the people.

Preserving Archaeological and Historical Monuments and Forts: As a part of these efforts, the state must also undertake responsibility for such items of work which are unlikely to be taken up by the private sector. Looked at from this perspective, historical monuments in Maharashtra, with their total neglect, present a distressing site. A society which erases its past cannot have any moorings. The budgetary requirements for the upkeep, maintenance and preservation of historical monuments are not likely to be large as compared with those in the other sectors. It is recommended that the state government should announce a time-bound programme for undertaking this task and should then endeavour to involve the corporate sector in a joint partnership for this purpose.

Cutting Down the Citizen's Interface with Government: One of the prime reasons for the harassment of citizens by government agencies is the need of the people to approach these agencies for various requirements from time to time. It is not uncommon to hear from people complaints regarding harassment, waste of time and money, repeated visits to offices, and institutionalised systems of informal payments which have to be made for getting stamp papers, VII-XII extracts of land records, encumbrance certificates, driving licenses, and, it is difficult to believe but, even for paying the dues of the government! A great deal of corruption and harassment can be reduced if these requirements can be met, without approaching the government departments, through single-window stations such as the TWINS in Hyderabad, funded in the course of time by private sector. Payment of all government dues through banks and even post offices can be another way to deal with this problem. The state government should announce that cutting down the citizen's interface with the government agencies will be one of the main instruments in the programme for good governance in the State.

Items of Work Which Can be Contracted Out: As a part of down-sizing of government, each government office and organisation may be asked to identify the items of work which can be contracted out and need not be done in-house. Intensive and in-depth reviews need to be taken of the functioning of the government to contract out as much of its work as possible. This may also require amendment of the relevant labour laws so that the discretion of the government in this behalf is not fettered in any way. The committee had requested the department of labour to help the committee in crystallising the proposals in this behalf but there was reluctance to tread on this “dangerous” and politically sensitive ground! The committee would recommend more bold thinking on this matter both at the administrative and political level.

This aspect is equally relevant to the work of the urban local bodies. A large number of activities of these bodies could be entrusted to private sector thereby reducing the size of the bureaucracy in these bodies. This is particularly true of areas such as municipal transport which are loss making and are a big drag on the finances of these bodies. There is no reason why urban transport services cannot be privatised. The same is true of the water supply and sewerage services. These so-called traditional municipal services can be easily contracted out. The committee was told that the relevant law on the subject has already been amended to enable the municipal bodies to do so but it has not made any actual difference in practice. This subject needs to be pursued at the government level for speedy follow up action.

This subject is also relevant to the work of the PSUs. Unfortunately, even though the state government has created a large number of irrigation development corporations, the size of the Irrigation Department of the state government has not contracted. The same is true of the corporatisation of construction of highways, bridges and flyovers. The size of the Public Works Department has not contracted in the process! There is ample scope for privatisation of power generation and distribution in MSEB. Unfortunately, due to the resistance of the employees of MSEB, the state government is soft-peddling the matter and postponing the day of reckoning! Needless to say, the down-sizing of government will require some bold decisions and firm handling. Otherwise, privatisation may remain a subject of academic seminars and discussions for a long time to come.

### Enacting a Law on Good Governance

It is high time the state government enacts a law on good governance which will spell out the state government's commitment to the principles and precepts of good governance. This is a new concept which will have to be refined over the years though a beginning can be made without loss of any time. For example, no one would have thought it necessary or appropriate to enact a law on budget management and fiscal responsibility even a decade ago. In fact, it was always argued that it was impossible to restrict the freedom of government in these matters and the state cannot be bound by extraneously fixed ceilings such as on borrowings, guarantees, fiscal deficit, revenue deficit and so on. But such legislations are on the statute books in a number of countries. The Government of India too has introduced a Bill for the purpose in Parliament in the year 2000. Similarly, commitment to good governance needs to be underlined by self-imposed restrictions in a suitable legislation enacted for the purpose. The broad features of such a legislation may be along the lines of the recommendations contained in this report. Such a legislation will help people judge the performance of the government in power from time to time.

Enactment of a Law On Fiscal Responsibility and Budgetary Management: In Maharashtra context, ensuring financial solvency of the state government has assumed special responsibility due to the profligacy of the government over the years. This matter can no longer be left to the good sense of the political parties in power. There must be a law on the basis of which the state government's performance can be judged from time to time. It is recommended that the state government may take steps to introduce a legislation on the subject on the lines of the Bill introduced by the central government in Parliament in the year 2000.

Enactment of Legislation on Protection of Whistle-Blowers: It is often the persons working in the system who can expose wrong-doings in the system. However, such persons need to be protected as they perform a very valuable function in society. There are a number of countries in the West in which special enactments have been passed or Rules have been made to give legal and other protection to persons who expose wrong-doings in government. It is recommended that a similar legislation may be passed or Rules promulgated for the purpose in Maharashtra.

Compilation of Index of Good Governance The concept of good governance needs to be translated into a quantifiable annual index on the basis of certain agreed indicators such as pendency of civil and criminal court cases, number of communal riots, number of people killed in police firings, increase in crime (for which all India statistics is available), custodial deaths, birth rate, death rate, infant mortality rate, extent of immunisation, literacy rate for men and women, sex ratio, availability of safe drinking water supply, electrification of rural households, rural and urban unemployment, percentage of girls married below 18 years, percentage of villages not connected by *pucca* (all weather) roads, and so on. Some universally accepted criteria for good budgetary practices may also be included in the index. These would include, among others, revenue deficit/surplus, quantum of fiscal deficit, outstanding loan repayment liability, interest burden, capital expenditure and the extent of government guarantees. These values will have to be worked out as a percentage gross state domestic product (GSDP). The other criteria could include number of occasions and the period for which the state was in overdraft or in Ways and Means accommodation with the Reserve Bank of India, and the tax performance of the state and disbursement of subsidies as a percentage of GSDP. This is only an illustrative list of items which could figure in the index of good governance.

Amendment of Right to Information Act:

The government should take very early steps to amend its law on right to information. It was distressing to see that the state government has selected, as a model, the most regressive legislation in the country, namely, that of Tamil Nadu, for enacting its own law though several other models were available. These included enactments of State Governments of Goa, Rajasthan and Karnataka, and draft Bills recommended by the Press Council of India (PCI), Shourie Committee (SC) appointed by the Government of India, and the National Workshop on Right to Information held at the National Institute of Rural Development (NIRD), Hyderabad.

The model Bill formulated by the NIRD Workshop would be the most suitable for adoption by the Government of Maharashtra as it contains a number of important features and has made some major improvements in the PCI and SC Bills. Some of its distinguishing features are briefly brought out below:

- (a) The title of the Bill contains the words “right to information” as opposed to “freedom of information” mentioned in the Shourie Committee Bill. This is important as the Bill is meant to operationalise the right to information guaranteed by the Constitution and upheld by the Supreme Court in a number of cases.
- (b) The Bill covers not just the government sector but also the private sector, co-operative societies, other societies registered under the Societies Act, public trusts, non-government organisations (NGOs) and so on. Right to information in respect of these organisations is as necessary as it is in respect of the government. Only then social accountability can be ensured in all sections of society.
- (c) Information affecting the life and liberty of a person will be made available within 24 hours of the receipt of the application therefor in an office.
- (d) There will be no presumption regarding rejection of any request for information if no reply is received within the stipulated time.
- (e) The purpose for which the information is sought will not be relevant.

The exclusion clause, i. e. the cases in which information will be withheld, has been made considerably restrictive so that the basic purpose underlying the proposed legislation is not defeated. Thus, for example, notings and discussions on the files as also cabinet notes should be available for the information of the public once a decision is taken on any individual case.

The Bill provides for punishment to the employees for contravening the provisions of the law. The extent of punishment should depend on the nature of default on the part of the employee.

There should be two appeals permissible in each case of rejection of any request for information. While the first one may lie in the department concerned, the second should be to an outside agency such as the Lok Ayukta.

The information may be provided in the same medium in which it has been asked for. Thus it should be possible to ask for and obtain information electronically, through internet, e mail, etc.

The Government of India has introduced a Bill on Freedom of Information in Parliament which is presently before the parliamentary standing committee on Ministry of Home Affairs and is meant to cover the central government and state

governments and other related offices. Once this Bill is passed by Parliament, the Central Act will also be applicable to Maharashtra.

Suo-Motu Publication of Information: Each office should set apart a room as public concourse for easy access of the people. It should have all rudimentary facilities such as proper sitting arrangement, drinking water, fans, a notice board, an intercom telephone connection to the officers, etc. There should be a facilitation officer available in the public concourse for guiding the public. In the case of smaller offices, this responsibility can be entrusted to one of the officers/senior staff members on a part-time basis.

As a general rule, it may be stated that each office should bring upto date every six months, and as often as may be necessary, and make available the following information in the public concourse:

1. --Its organisational structure
2. --Names of officers and work looked after by them, along with their telephone numbers, fax numbers, e mail address etc.
3. --Services offered and responsibilities dealt with by the office
4. --Activities which require licences and approvals
5. --Procedures for handling applications for licenses, permits etc.
6. --Time limits prescribed for disposal of applications
7. --Application forms prescribed, fees to be paid, manner of payment of fees etc.
8. --Acts, rules, regulations and guidelines laid down for the purpose
9. --List of publications, office manuals, standing order files, guard files which have to be referred to by the staff in deciding cases
10. --Decision-making processes in terms of procedures, powers and responsibilities of officers at various levels
11. --Applications invited under various schemes and programmes implemented by the office
12. --Criteria for selection of beneficiaries
13. List of beneficiaries chosen under the schemes and programmes
14. --Copies of tenders issued from time to time, their dates of opening, scrutiny and final results
15. --Information regarding award of tenders

16. --Description of all classes of record under the control of the office in sufficient detail to facilitate access to it by prior permission, and

17. --The name of the facilitation officer.

Each office should identify the kinds of information pertaining to its activities which interests people at large and arrange to publish it on its notice board and by a communication to the media, and NGOs operating in the concerned field, at regular periodical intervals, as may be prescribed. Thus, for example, each municipal body should make public periodically building permissions granted, along with relaxations, if any, permitted. Details of property tax levied in each case could also be published on the notice board for people to see. Such an experiment done in Vijayawada Municipal Corporation has led to large increase in the revenue of the municipal body. A village panchayat should make available, on its notice board, a list of workers engaged on employment programmes such as *Jawahar Rojgar Yojana*, for people to see. The whole idea should be to transact all work in any given office in as open, transparent and accountable manner as possible.

It is suggested that three months time be laid down for all offices to set up public concourses and to identify, with the approval of their higher offices, the kinds of information which will be published *suo-motu* and the intervals at which it will be so published.

It is recommended that, in the light of the above, very early steps may be taken to amend the Right to Information Act. It would be useful if an announcement to this effect is made by the state government very early.

Publication of Standing Orders, Guard Files and Guidelines: A great deal of government work is transacted on the basis of standing orders and guidelines laid down from time to time. Guard files are the beacon lights for functionaries in government offices. It is necessary that the citizens know the basis on which a certain decision is likely to be taken by the government. Like the laws, rules and regulations, these also ought to be in public domain which are available for anyone to see, though they have never been treated as such in government offices. In fact, the tendency in government offices is to treat them as super secrets. As a result, the working of a government is a mystique for a common person. It is time steps are taken to demystify the government.

It is recommended that all offices/Heads of Departments/secretariat departments should take steps to publish within a period of three months all standing order files, guard files and guidelines and to make a copy thereof available in the public concourse for people to peruse.

It will be equally important to publish, from time to time, any new standing orders or guidelines issued by the government.

#### Strengthening the Rule of Law

Review of Old and Out-Dated Laws: While we talk about the supremacy of the rule of law, this becomes farcical and cynical with a number of laws on the statute book which are old, out-dated and hardly suited for the 21st century, or for that matter the new regime of economic liberalisation and globalisation. Unnecessary State intervention and controls need to be removed or at least relaxed. The punishments prescribed under most statutes are far too mild. Monetary ceilings for punishment, laid down in penal clauses, have lost all significance with the passage of time. As a result, there is no fear of law left in society. Certain laws have clearly become out-dated and need to be repealed.<sup>3</sup> The state government should announce that the task of up-dating at least all major laws will be completed in a maximum period of two years. A time-bound programme should be laid down for this purpose for all departments and monitored closely. This work can also be expedited by setting up of a Law Commission with a mandate to finish this task and to make suitable recommendations to the government within a period of two years at the latest.

Simplification of Laws: A major programme has been undertaken in a number of Western democracies to simplify the laws and to draft them in a language which is easily understood by a common person. The drafting of laws in India leaves a great deal to be desired and most laws have provided ample opportunities for court litigation due to their vague terminology, complex language and involved construction. The task of simplification of laws is gigantic but must be addressed with a sense of urgency.

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<sup>3</sup> Of the 1760 laws prevalent in the state, the Government of Karnataka has taken steps to repeal 1038 Acts in the recent Assembly session. See, *Ibid*, p. 88.

As a part of these efforts, legislation, whether principal or subordinate, should not lay down formats for collection of information. In view of its implications for e governance, the design of forms should be left to the executive.

Large Pendency of Court Cases: Large and mounting arrears of cases in courts at various levels has led to frustrating delays in getting decisions. It is not uncommon to see a case taking over a decade to come up for a decision even in a lower court. Thereafter, the process of appeals takes anywhere between one to two decades. It is suggested that the following measures be adopted, in consultation with the High Court, to deal with the problem:

- (a) In a large number of cases, the government is the litigant. All pending cases filed by the government should be reviewed by a competent panel to withdraw those cases which may not be worth the money and time spent in the court.
- (b) Steps should be taken to create additional posts of judges at various levels to deal with the arrears expeditiously.
- (c) A time-bound five year programme may be chalked out to provide the necessary infrastructure for the existing and new courts by making requisite budget provisions commencing from the year 2002-2003.

Opening of New Courts: The state government should announce a five year programme for opening of new courts in consultation with the Bombay High Court. Such a programme should be on a roll on basis so that the task of bringing down the arrears of court cases can be addressed in a time-bound manner.

Incorporation of "Sun-Set Provision" in All New Legislation: Almost all our laws are meant to continue in existence till eternity. But, laws also need to keep in step with the changes in economic, social and cultural environment in a society. What is perceived as most important to undertake a legislation at one point of time may no longer be viewed as such after a lapse of some time. It would, therefore, be reasonable to lay down a specific time limit up to which any law will remain in force. Thereafter, it may be continued only with a fresh mandate of the Legislature. Standing instructions may be given to the Law Department to incorporate a sun-set provision in all new legislations. Whenever any old and out-dated laws are revised, as proposed in the earlier paragraph, sun-set provision may be included in each one of

them as well. Similar provision may be made in all laws in force by introducing a comprehensive Bill for the purpose in the State Legislature.

#### Enactment of a New Law on Release of Old Government Record

It is high time people are given access to the old government record according to certain statutorily laid down time periods. There is no reason why the limit need be uniformly of thirty years for release of all record. Only certain record need be kept away from people for a long enough period. In a country like United States, radical changes have been made in the policy in this behalf.

The committee recommends that all government record be divided into three groups. The first group should contain record which can be released for public information ten years after the date of final decision on each file. The second group will comprise record which needs to be kept locked up for twenty years. The last category will be of record which is to be released on completion of thirty years. The idea should be to include as much record as possible in group one which can be released after ten years. The pyramid must be such that only selected record is kept away from people for over twenty years and up to thirty years.

It is further recommended that the state government should undertake a very early legislation in this behalf. It is also recommended that a cell should be created in each office, from among the existing staff in the said office or the staff declared surplus in other offices, to classify the files as above for periodical release. It is suggested that the state government should make an announcement of the adoption of policy as above in the month of January 2002.

As a part of these endeavours, steps need to be taken to bring the record rooms in all offices upto date. At present, the condition of record rooms in most offices is pitiable, to put it mildly. They often do not have rudimentary facilities such as fans, wooden/steel racks, filing cabinets, tables and chairs. The records are mostly tied in cloth bundles and are covered with dust. There are no proper techniques adopted for preservation of record. Large number of closed files remain with the dealing hands in branches/sections without being transferred to the record room. Considerable record remains to be classified. Posting of a person in the record branch is considered a punishment. Staff posted in the record rooms have no incentive to do any good work. All this will have to change if any visible improvements are to be brought about in a

short time. It is recommended that a small inter-departmental working group may be appointed to go into all these issues and suggest remedial actions within a period of three months.

Finally, the state government should set up a Records Commission to advise the government on all these and other related matters. The Commission may comprise eminent people in public life whose credibility and credentials are beyond doubt and who enjoy certain respect and standing in society. The recommendations of the Records Commission may be binding on the government unless, for reasons to be recorded in writing, the government decides to over-rule the Commission.

Amendment of Lok Ayukta Act: Maharashtra was one of the first States in the country to set up the institution of Lok Ayukta. The institution has already completed 25 years of its existence but its impact on the public life in Maharashtra has been minimal. It has largely remained preoccupied with grievances of the staff and has not made any significant contribution to the cleansing of public life in the state. This will be possible only if the Act is amended extensively. Certain proposals made in this behalf by the Lok Ayukta have been pending with the state government for years together. The All India Conference of Lok Ayuktas has also formulated a draft model legislation for the purpose. This matter too has remained unattended.

While the government has neglected the institution of Lok Ayukta, newer institutions are proposed to be set up. One such proposal pertains to setting up of a vigilance commission. There is no reason why the Lok Ayukta cannot be entrusted with the same functions as those which are intended to be entrusted to the vigilance commission. It is recommended that the proposal to set up a vigilance commission may be given up and instead very early action may be taken to amend the Lok Ayukta Act suitably. It is proposed that, among other amendments, the following be considered on priority basis:

- (i) Entrusting the Lok Ayukta with the overall responsibilities of overseeing the vigilance work in the state.
- (ii) Putting the D.G., Anti Corruption, under the overall charge of the Lok Ayukta.
- (iii) Sanctioning a special investigating team of police officers for being placed at the disposal of Lok Ayukta as in Karnataka and Madhya Pradesh.

- (iv) Entrusting the responsibility to the Lok Ayukta to release his reports to the general public as soon as these are presented to the government from time to time.
- (v) Giving financial autonomy to the Lok Ayukta and to make the expenditure of the office of Lok Ayukta “charged” expenditure.
- (vi) The recommendation of Lok Ayukta to sanction prosecution in any case should be treated as mandatory.
- (vii) Section 10(2) of the Lok Ayukta Act states that, “Every such investigation shall be conducted in private and in particular, the identity of the complainant and of the public servant affected by the investigation shall not be disclosed in the public or the press whether before, during or after the investigation; Provided that the Lok Ayukta or an Upa Lok Ayukta may conduct any investigation relating to a matter of definite public importance in public, if he, for reasons to be recorded in writing, thinks fit to do so.” This section should be deleted. When proceedings before courts are all in public, there is no reason why this restriction should apply to the institution of Lok Ayukta. It should be left to the Lok Ayukta to decide in which particular cases (for reasons to be recorded in writing) to conduct investigation in private. Otherwise, all investigations should be open.
- (viii) Enquiries against public servants who may have ceased to hold the office of profit may be continued even after they have demitted office.
- (ix) A number of important recommendations contained in the model Lok Ayukta Bill prepared by the All India Conference of Lok Ayuktas may be incorporated in the Maharashtra Act.
- (x) Two of the largest PSUs in the state pertaining to power and transport, namely, the Maharashtra State Electricity Board (MSEB) and the Maharashtra State Road Transport Corporation (MSRTC), which have remained outside the purview of this institution, should be brought under its fold.

Attention may be invited to yet another important matter pertaining to the working of the office of Lok Ayukta. As the Lok Ayukta has noted, there is a tendency on the part of the government to pass special orders for giving just and fair relief once the government accepts the recommendations of Lok Ayukta in any particular case.

Instead, general orders may be issued so that all other cases of similar nature are treated in the same manner without their having to approach the Lok Ayukta separately.

Set Up a Statutory, Autonomous Urbanisation Commission: Maharashtra is one of the most urbanised states in the country. Its further rapid urbanisation has been continuing at a brisk pace. This has led to a large number of problems for the urban areas. The urban infrastructure services are being stretched to the limits. The quality of life in urban areas is deteriorating rapidly and most of the towns and cities present a look of decadent, wasting and deteriorating human settlements. The administrative structures are least suited to handle these multifarious and complex tasks. The administrative machinery dealing with urban areas functions as an extension of the revenue machinery and is least equipped to handle the gigantic problems in the area. There is a total lack of transparency in the working of these organisations in matters such as building permissions, levy and revision of property tax, dereservation of land reserved for public purposes, observance of budgetary discipline and so on. The lobbies of builders and land Mafiosi are playing havoc with the future of urban areas. To attend to these matters, laws, rules and regulations need to be updated and modified on the lines of enactments in Western countries. Altogether new organisational structures need to be evolved. Even issues such as urban arts, heritage structures and overall designs of buildings need to be attended to with a new, imaginative and sensitive approach. Unfortunately, there is no specialised institution or organisation to look into all these matters on a careful, close and continuous basis. It is therefore recommended that a statutory, autonomous and independent urbanisation commission, comprising experts from the related multi-disciplinary fields, may be appointed as soon as possible to take stock of the fast deteriorating situation and to suggest remedial actions to the state government.

#### **IV. Maintaining Law and Order**

The maintenance of law and order and looking after public order are the Constitutional duties cast on the state government. Looking to the complexities of the issues and the enormity of the problems in the field, it is not surprising that a number of people believe that if the government manages its Constitutional responsibilities of looking after the law and order and administration of justice competently, all other

matters could be left to the people. It is necessary that the following issues and concerns receive close attention of the government.

Divesting the Police of the Responsibilities of Implementation of Social Legislation:

There has been a surfeit of social legislation, particularly since Independence. At present, implementation of all these laws is entrusted to the police. It is often argued that the police may be divested of the responsibility to oversee the observance of these laws so as to enable them to concentrate on their primary duties of maintenance of law and order and crime detection, and that the responsibility for the social legislation may be entrusted to the concerned departments such as Food and Drugs Administration, Excise Department, Weights and Measures and so on. Such a recommendation was put forth in the discussion of this committee with senior police officers. Similar recommendation has also been made in the report of the committee (V. G. Kanetkar Committee) of some eminent retired police officers from Maharashtra who have served with distinction both in the state government and the Government of India. Implementation of this suggestion is however fraught with several difficulties. The main difficulty is that the reach of these departments is not as wide as that of the police and if they are to exercise all the powers which are currently vested in the police, there will have to be considerable increase in field staff in all these departments. They also do not have the wherewithals which the police possess in terms of modern communication and transport facilities and so on. However, since this issue has been coming up again and again, it is best that it is set at rest by appointing a study group to closely examine the pros and cons in the matter and to see how far it can be implemented. It is proposed that such an inter-departmental study group may be appointed very early.

Review of Police Duties: With the serious shortage of trained manpower facing the police department, it is necessary to divest the police of certain responsibilities and to adopt new technology as brought out in the following paragraphs.

- (i) The police should be divested of the watch and ward duties such as at fixed points in banks, guarding of examination papers and centres, providing peripheral security to certain establishments such as oil companies, Mumbai Port Trust etc. and these duties be entrusted to private security agencies.

- (ii) Currently, 195 telephone orderlies are provided at Ministers' bungalows. This function need not be performed by policemen. This is a waste of trained manpower of the police department and this work can easily be done by clerical staff.
- (iii) Large number of police are required for producing accused in the courts even on days of non-effective hearings such as extension of remand, deciding the next date of hearing and so on. In Andhra Pradesh and Madhya Pradesh, the system of video conferencing is being considered where the magistrate would be able to talk to each and every accused who is lodged in jail to enquire about his safety and well being and to give the next date of hearing. This will obviate the need for producing the accused in courts except on the dates of substantive hearing.
- (iv) Service of summons and warrants, escort of prisoners, and protection duties for certain categories of persons could also be contracted out. The last named point is particularly relevant in the context of the fact that currently police have to provide security even to the criminals facing serious charges. And such security has to be provided to them by the State till their guilt is proved beyond the shadow of doubt.
- (v) Police escort has become a status symbol causing extreme drain on police manpower, mobility and budget. Despite repeated pleas to put a stop to the practice, demands for police escort continue to pour in. Strict instructions need to be issued in this regard by the state government itself to put an end to this practice.
- (vi) Protection and security related requirements are depleting the police force substantially. In the process, it is the common person who is the sufferer as legitimate police functions are being neglected. The state government should ruthlessly scrutinise the list of the protectees so as to prune it to the maximum extent. Except in exceptional cases to be brought to the notice of the legislature, in all other cases, full cost of providing protection should be recover from the person to whom the protection has been provided.

These are only illustrative cases to indicate how much manpower can be released for regular police work. It is proposed that a committee be appointed to consider all such

suggestions and to make suitable recommendations to the government for immediate implementation.

Undertake a Study of the Motor Transport Wings: The police has large complement of vehicles and these are being augmented every year. It will be useful if the motor transport wings of the police department are periodically got examined by a consultantancy firm to increase their productivity, efficiency, availability and reliability.

Creation of a Separate State Industrial and Security Force: The state may consider raising a separate force to guard industrial establishments and to provide protection to persons whose life is considered to be in danger. This will relieve the police of these chores and make them available for their basic police duties. It should be possible to finance such a force by the charges levied for the purpose on industrial establishments and others.

Delegation of Powers to the Police for Prosecutions/ Appeals :

(i) It is noticed that the important provisions pertaining to prosecution of persons indulging in communal writings and pronouncements under Sections 153A and 153B of IPC etc. have not been effective as the state government often takes a very long time in giving permissions for prosecutions under these provisions. Often, these matters are also decided on purely political basis. All this is against the well accepted doctrine in Western democracies that the police are to be held responsible for implementation of laws passed by the legislature. Rightly, the police should be fully competent to take decisions in these matter. If they take wrong or motivated decisions, they should be answerable to the courts. It is therefore proposed that the powers to prosecute under these sections may be delegated to the police entirely. It may be laid down that these powers should not be used by officers of the rank below that of Inspector General of Police without prior sanction of such an empowered officer.

(ii) Same should hold good in respect of cases under section 295 IPC.

(iii) In the case of Arms Act, once an illegal arm has been seized by the police, there should be no need of any permission of the government for filing the chargesheet in the court. If necessary, an amendment may be carried out in the Act for the purpose.

- (iv) For filing appeal against the order of the lower court or for cancellation of bail, approval of the government is required. There are long delays in getting permission from the government as above. Often, even the appeal period is also over. The powers to file appeals may be delegated to the police.

Delegation of Powers: We have elsewhere dealt with the importance of review of delegation of financial and administrative powers at regular intervals. The proposals in respect of the police summarised below appear to be reasonable and may be accepted. This illustrative case shows the scope available for such wide-ranging delegation in all departments of the government:

- (i) All administrative and services matters, excluding disciplinary actions and transfers above a particular level, upto the level of IGP should be delegated to DGP, Maharashtra, and Commissioner of Police (CP), Mumbai. The DGP should be permitted to post officers of the rank of Dy. S.P. without reference to the government.
- (ii) Inspector in charge of a police station may be given financial powers for purchases upto a limit of Rs 1000 of each item at a time.
- (iii) Range IGPs may be declared as Heads of Departments.
- (iv) District Superintendent of Police may be given full powers regarding the administrative and financial matters pertaining to the constabulary such as withdrawal from the GPF, medical reimbursement, etc.
- (v) In Mumbai, where more than fifty thousand policemen are working in various establishments, it may be useful to set up a separate centralised pay and accounts office for policemen as has been done in the case of armed forces personnel.
- (vi) Considering the high cost of petrol, oil and lubricants (POL), it is no longer advisable to undertake repairs upto Rs 1,500 of police vehicles stationed at distant places, at unit headquarter level. Powers need to be delegated to get the repairs done at the police station level.

Reducing the Pendency of Criminal Cases in Courts:

- (i) Long pending old cases except those of a serious nature like murder, decoity, attempt to murder, etc., where the imprisonment undergone by a person is more than the punishment prescribed for the offence, may be closed.

- (ii) Petty cases may be disposed off in Lok Adalats.
- (iii) Guidelines may be issued in the light of Supreme Court judgement in Rajdeo Sharma vs. State of Bihar (1997) for closing cases where trial is not completed within a period of 2-3 years as laid down in the judgement.

Creation of a Legal Cell in Each Supervisory Office: After the separation of the prosecution wing from the police, there has been a sharp deterioration in the rate of convictions in criminal cases. It is alleged that the prosecutors do not take sufficient interest in the cases and neither are they answerable to the police hierarchy for their poor performance. Since the prosecution branch cannot be brought under the police as in the past, it is proposed that legal cells may be created in supervisory offices to keep close watch over the prosecution proceedings and to bring weaknesses, if any, to the notice of the investigating officers.

Relieve the Police of Certain Responsibilities in Court Cases: As per Section 207 Cr. P.C., the courts are supposed to provide copies of the chargesheet and other documents to the accused. The *muddemal* is also supposed to be deposited in the court along with charge sheet. But, in practice, the situation is quite the contrary. Police stations are forced to provide the copies of the chargesheets and other record to the accused. At times, this runs into hundreds of pages. There is no reason why the police be asked to shoulder this responsibility. Similarly, in most cases, the courts are not accepting the *muddemal* at the time of filing of the chargesheet and it has therefore to be deposited in the police station to be produced at the time of the trial. This too is unnecessary imposition on the police. Both these issues may be taken up by the state government with the High Court for issue of suitable instructions to all courts in the state.

Fresh Review of Cases to be Investigated by the Police: Section 427 Cr.P.C. lays down that if damage or loss of an amount of Rs 50/- or upwards is caused by any one, he is liable for punishment and fine. Thus even petty cases have to be investigated by the police. It is recommended that this monetary limit may be stepped up to Rs 5,000 so that police need investigate cases involving loss or damage only of an amount higher than the prescribed limit. In other cases, the police may be asked to register the FIR, do a *panchanama* and give copies of the relevant documents to the

complainant for claiming insurance compensation etc. All cases in which the loss is less than of Rs 5,000 may be brought under section 157(1)(a) and (b) of Cr.P.C.

Stricter Scrutiny before Filing of Chargesheet: For good governance, it is necessary that stricter supervision and control is exercised over the functioning of the police stations. Towards this end, it may be laid down that chargesheet will be filed only after the approval of the Zonal DCP in Mumbai and Superintendent of Police in the district. This would imply that cases will not be put in courts till they are properly investigated. Its benefits will be manifold like better quality of investigation due to the involvement of senior officers, reduction in the workload of the courts and speedier decisions by the courts. All this should help in improving the criminal justice system in the state.

Police Housing and Maintenance of Police Buildings:

- (i) The satisfaction level of housing in police department is just about 50 per cent. The state government must draw up a fifteen year time-bound programme to provide housing to all policemen in the state. This is imperative if the police are not to be forced to stay in the slums with all the dangers of their contamination by the criminals and the underworld.
- (ii) Now that the Maharashtra Police Housing Corporation is headed by an officer of the rank of a DGP, it is recommended that, wherever possible, the responsibility of construction, repair and maintenance of police buildings may be transferred to the Corporation along with the requisite budgetary provision.

Traffic Management: Traffic management has emerged as an important responsibility of the police with increasing urbanisation and heavy concentration of vehicle population in most of these areas. It is necessary to streamline the existing arrangements along the following lines to enable the police to discharge this responsibility effectively.

- (i) The responsibility for erection and maintenance of traffic signals should be transferred from the municipal corporations to traffic police.
- (ii) A separate engineering and planning unit should be established in the traffic branch.
- (iii) The revenue raised by the traffic branch in the form of fine for traffic violations should be transferred to traffic branch in entirety.

Implement the Recommendations of the National Police Commission: The recommendations of the National Police Commission (NPC) have been pending for over two decades. In exasperation, a public interest litigation has been filed by some former police officers in the Supreme Court. The recommendations of NPC will go a long way to make the police more accountable to the people. It is suggested that the state government should take very early decisions in the matter.

#### **V. Making Government Transparent and Accountable**

Adoption of a Mission Statement by Each Office: It will be possible to bring in accountability in each office only if the people at large know what that office is expected to achieve. This is equally important for the staff and officers in any office as, in most cases, they themselves are not clear about what they are expected to achieve and on the basis of what parameters would their performance be judged. It is therefore time each office adopts each year a mission statement and gives it a wide publicity.

Holding Lok Adalats Every Quarter: One more way to bring in accountability is to start the system of holding *lok adalats* (public hearings) in matters pertaining to the work handled by each office once in three months. Prominent social workers and NGOs may be associated with this exercise for more productive results. Wide publicity in the print and electronic media will generate large public response and help each office to judge the pulse of the people in so far as its own sphere of activities is concerned.

Do Away With the Distinction Between Plan and Non Plan Expenditure: One factor which has led to blurring of accountability in the government is the artificial distinction drawn between Plan and Non Plan expenditure. As is well known, at the end of each five year plan, on-going schemes and programmes undertaken in that plan become non plan. This, by no means, implies that such expenditures are any less important or worthy than the plan expenditures. Thus, it will be wrong to assume that all non-plan expenditure is necessarily non-developmental. In fact, some primary schools and public health centres may be in the non-plan and some may be in the plan. Both are as important and relevant for development. The real distinction must be drawn between developmental and non-developmental expenditure. It is proposed

that the state government should take steps to exhibit its expenditures accordingly for better understanding of development issues.

“Sun-Set” Provision for All Schemes and Programmes of Government: All government schemes and programmes are generally meant to continue till the end of the world, howsoever the world may have changed in the meanwhile. This has meant large and infructuous expenditure in the name of development. The government should announce that all existing schemes and programmes shall lapse on 31 December 2001 unless a conscious decision is taken, in the meanwhile, at the level of the Cabinet to continue them in the same or in any modified form. This will enable the state government to meet the challenges of the new millennium, by discarding the dead-wood and with a resolve to use its scarce financial and managerial resources efficiently, productively and diligently.

Standing orders should be issued that, in future, any scheme will continue for a *maximum* period of three years from the date of its sanction, unless, after detailed evaluation of the same, a conscious decision is taken by the government, at the level of the Cabinet, to continue it in such form as may be considered necessary.

It is necessary that in the evaluation of the schemes and programmes as above, NGOs are actively associated. For, what matters is not just the processes adopted for incurring the expenditure but also the final output of the given scheme. The present practice of getting such evaluation done only through the governmental agencies needs to be discarded as soon as possible. Standing instructions may be laid down that no scheme or programme will be continued unless it is evaluated jointly by the Directorate of Economics and Statistics, reputed NGOs working in the field and social workers of eminence.

There is considerable overlap and duplication in a number of central sector and centrally-sponsored schemes and programmes. This is particularly true in the case of schemes pertaining to rural development, land development and employment generation. This may be brought to the notice of the concerned administrative Ministry, Finance Ministry and the Planning Commission for immediate remedial action.

Social Audit: It is necessary to underline that the only justification for any government activity is that it subserves the interests of society, and particularly its

economically and socially weaker sections. In this light, it is necessary that the work of all wings of the government is reviewed periodically and audited by the stakeholders themselves. It is obvious that this function is not done adequately by the audit of Comptroller and Auditor General of India (C&AG) which concentrates excessively on compliance with the formalities laid down for incurring the expenditure and neglects the output generated by such expenditure. It is suggested that the government should immediately announce its intention of conducting social audit of some of its main spending departments through well respected, knowledgeable and non-political bodies of individuals. Special care will have to be taken to see that the composition of the social audit committees will command universal respect and will be above any party politics.

Tribal Development—A Neglected Chapter in Maharashtra: The importance of points brought out in the above paragraphs is amply evident in respect of the performance of the state in respect of tribal development and welfare. The population of scheduled tribes (STs) in the state, as per the 1991 census, was 73.18 lakh. Maharashtra has the second highest tribal population in the country, after Madhya Pradesh. In spite of fifty years of development, economically, the tribal population is at the lowest level with more than 65 per cent of the households living below the poverty line. The literacy rate for the total population of the state was 64.87 per cent in 1991. The comparative figure for the tribal population was 36.79 per cent. Large scale deaths, particularly of children, due to malnutrition has been a shocking recurring phenomenon year after year. Looking to the past experience, the following points deserve consideration:

- (i) There is considerable duplication and overlap of schemes. This needs to be looked into.
- (ii) There are currently 363 schemes under implementation. Most of these are not necessarily best suited to meet the requirements of the tribals. Also, with such a large number of schemes, the resources get spread too thinly and there is no appreciable impact of development expenditure.
- (iii) There is a need for a much larger involvement of NGOs in the development efforts in the tribal areas. It is necessary that successful and dedicated NGOs are used by the government for better implementation of its schemes and

programmes. As a first step, the government should compile a directory of NGOs working in the tribal areas.

- (iv) The government should seriously explore the possibilities of handing over government Ashram Schools to NGOs and other suitable voluntary organisations.
- (v) The staff posted in tribal areas hardly ever stays at its headquarters. More often, posting in these areas is treated as a punishment posting for officers and staff whose performance is below the prescribed standards or for those who are involved in dereliction of duties. As has been suggested elsewhere in this report, one posting in tribal areas may be made compulsory for all officers categorised as good or outstanding. Such a posting should be considered mandatory for promotion to higher levels.
- (vi) The work of Tribal Development Corporation needs to be examined critically so as to decide whether it be continued, and if so, in what form and with what charter. Such a study may be undertaken immediately.
- (vii) There is no need to have a separate Shabari Tribal Finance and Development Corporation. It may be merged with the Tribal Development Corporation.
- (viii) All schemes and programmes of development may be got assessed by NGOs so as to decide on their continuance in the same or modified form.
- (ix) The working of employment exchanges in the tribal areas must be open and transparent. Names of all those who are on the registers and whose names are sponsored from time to time should be exhibited on the notice-boards for the information of all job-seekers. This will go a long way to instil a sense of confidence among them.
- (x) It is very difficult to get committed officers for posting in the tribal areas and it is still more difficult to retain them for a long enough period. It is necessary that a tenure of three years is scrupulously observed in tribal areas.
- (xi) By their very nature, all schemes pertaining to tribal development deserve to be transferred to ZPs under section 100 of the Z.P.Act. Unfortunately, only two minor schemes pertaining to Mangalore tiles and maternity grant have been so transferred. It is recommended that very early steps may be taken to transfer the remaining schemes to ZPs.

Production and Dissemination of White Papers: The state governments and the Centre are finding it increasingly difficult to govern with firmness, primarily due to the fractious polity in the country, short time horizon of political rulers, and a down-hill race for populism. It is unfortunate that, in spite of fifty years of Independence, political parties in the opposition have not evolved the system of shadow government to instil in themselves a sense of responsibility in dealing with the problems facing the State or the Centre.

The only way for a political party in power to get out of this impasse and to meet the formidable challenges is to create a public opinion in favour of responsible actions by the government. This will, more often, mean taking difficult, unpopular and unpalatable decisions. This will be possible only by education of the people at large on the size and complexity of the problems facing the State from time to time. This objective can be achieved by placing on the table of the State Legislature white papers on various issues. These papers will have to be given wide publicity through print and electronic media. Discussions, seminars, meetings and similar other public discourses will have to be organised to explain the *pros and cons* of the problems at all levels. Senior officers of the government as also Ministers will have to actively participate in these endeavours. The administration will have to be thus proactive rather than merely reacting to public criticism as at present. This will require a change in the mindset of the higher bureaucracy. Periodical training and refresher courses will help in this task.

Preparation of Annual White Paper on Public Expenditure: The single most important problem facing the state governments and the Centre is that of management of their finances. Over a period of time, all soft options are over. Now, there is no escape from some hard decisions. It is seen time and again that hard budget constraint alone compels the generally inert bureaucracy and the political masters to act. It is unfortunate that no effort has been made in the country so far to bring home to the people the harsh realities in this behalf. It is interesting to see that in a country like United Kingdom, the need for annual presentation of white paper on public expenditure was accepted over two decades ago.

The driving force in any such exercise must be to demystify the budget. All relevant information must be presented up-front and in an unambiguous manner. For example,

all subsidies must be transparent and shown explicitly in the budget to enable an assessment being made as to whether they are well targeted and they reach the target group, and the impact made by them and the extent of leakages in them. Who pays for whom is as important in public life as it is in the life of any person.

Against this background, it is recommended that the state government should bring out each year a white paper on its public expenditure and pose for public discussion and debate options which are available, in the short and medium term, for dealing with the situation.

Setting up of an Expenditure Commission: Looking to the dire state of government finances, it is imperative that the government expenditures are examined closely to bring about a change in the composition thereof. This is a massive task and will have to be undertaken in a dedicated manner. It is proposed that a three member expenditure commission be appointed on the lines of a similar commission appointed by the central government.

Setting up a Board for Review of Subsidies: According to the study carried out by the National Institute of Public Finance and Policy (NIPFP), the subsidies in Maharashtra in 1997-98 had reached the astronomical figure of Rs. 18,827 crore from Rs 9,413 crore in 1993-94. By comparison, the annual Plan outlay was just about Rs 10,000 crore in 1997-98. It is thus high time that the recovery of charges in various sectors is pursued vigorously. Looking to the size and the complexity of the problem, it is proposed that a Board for Review of Subsidies (BRS) may be set up comprising three part-time members, including a chairman, to advise the government on the subsidies which may be abolished, curtailed, modified and better targeted in any manner. It is further proposed that whenever there is a proposal for giving a new subsidy or enhancing or modifying any existing subsidy, the advice of BRS should be invariably sought and placed before the cabinet for a final decision.

Setting up of Autonomous Regulatory Commissions for Price Fixation: Ideally, the government should not be in the business of providing services such as electricity, water, milk, transport and so on. Though it may take some time to get out of these activities or cease to be a dominant player in the field, at least the government should not be in the business of fixing prices for sale of these services. It is every day experience that if a private sector producer/distributor or a co-operative society

increases prices of any goods or services, there is no outcry or public agitation. But, the government is held to ransom for similar action.

This is partly because, in the past, the government has shown, time and again, that it is amenable to public pressures. The vote-bank politics also plays its role. Equally important is the fact that the process of price fixation in the government is shrouded in secrecy and is hardly ever transparent. It is high time, the governments, whether at local, State or Central level, get away from it.

It is seen that techniques and methodology for computation of costs incurred by the government in providing the various services leave a great deal to be desired. It is necessary to standardise this exercise by commissioning a special study for the purpose. It is recommended that this be done as soon as possible as otherwise, in the absence of proper costing, setting up of regulatory commissions will not serve the desired purpose.

One way out of the present impasse in cost recovery is to set up statutory autonomous regulatory commissions to fix the prices of all goods and services in the governmental sector. In the case of public utilities, this will have to extend to the private sector as well. This would mean giving opportunity to all interested parties to present their point of view in open hearings of these bodies. It would also mean these bodies passing "speaking orders". The appeals over the orders of these bodies will lie only to the high court. The decision of the commission will be binding on all parties, including the state government. In arriving at its decisions, the commission will take into account the capacity of various consumer groups to pay the proposed tariff. The commission may also provide for a reasonable cross-subsidisation among consumer groups. If the state government would like a lower tariff to be charged to any group or category of consumers, the state government will have to provide explicit subsidy in its annual budget for disbursement to the concerned agency and give an undertaking to the commission to discharge such an obligation regularly each year for the period of the award of the commission.

Yet another advantage of such regulatory commissions also needs to be noted. A regulatory commission is expected to go into the question of whether the cost of providing the service estimated by the concerned department is reasonable or whether there is scope for bringing it down. In open hearings of the commission, the various

interested groups such as those of consumers and others will get an opportunity to comment on it and make suitable recommendations for the consideration of the commission.

It is equally important to note that a regulatory commission will also lay down the standards of service to be provided by the department/organisation concerned. If the service is not up to the standards laid down, a consumer can approach the commission for redressal of his grievance. This will compel the concerned government department to exhibit greater efficiency and productivity in its work. Thus, setting up of regulatory commissions will further the objective of good governance. It is gratifying to note that the state government has already set up the Maharashtra Electricity Regulatory Commission (MERC).

Against this background, it is recommended that the state government should take steps to set up the following statutory commissions:

- (1) Water Regulatory Commission (WRC) for all matters relating to distribution and pricing of water for irrigation, and drinking, industrial and commercial purposes. The Commission will also look after the pricing of sewerage services. The jurisdiction of WRC will cover the state government agencies as also the private sector when it enters this field.<sup>4</sup>
- (2) Transport Regulatory Commission (TRC) for the transport services provided in the urban, rural and other areas of the State by the state government agencies and private and municipal operators.
- (3) Other Services Regulatory Commission (OSRC) may be entrusted with the responsibility of deciding the prices of all other services provided by the state government such as those in the government hospitals, computerised facilities at the integrated citizen service centres, computer-aided administration of registration department, and similar efforts which may be launched in several other departments in future. This commission may also be asked to decide on periodical revision of fees in schools and colleges of various disciplines. In short, this commission may be empowered to decide on cost recovery pertaining to all

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<sup>4</sup> The *Sukthankar Committee Report on Operation, Maintenance and Management of Rural and Urban Water Supply Schemes, February 28, 2001*, makes a similar recommendation for the establishment of an independent Maharashtra Water and Wastewater Regulatory Commission.

activities of the state government, except those which are entrusted to the ERC, WRC and TRC.

Looking to the large and varied charter of OSRC, this commission may have a larger strength and should be enabled to have two or even three Benches at a time to simultaneously hear matters pertaining to several services.

To enable this scheme to succeed, it is imperative to ensure the empowerment of citizens. This is necessary to convey a clear and unmistakable message that the regulatory commissions are meant primarily not only to safeguard but further the interests of the consumer. Towards this end, the government must aid special programmes for the education of consumers which could be undertaken by the NGOs in the concerned field. The government should also implement a special scheme to equip the NGOs in the diverse fields for which regulatory commissions are set up to improve their advocacy of the interests of the consumers. This will mean training the persons working in these organisations and giving them technical support by deputising, if necessary, government servants, at government cost, for a period of up to three years till they build their own cadres, internal organisation and technical competence. The NGOs could also be encouraged to maintain panels of experts in various subjects who would be prepared to assist them preferably on voluntary basis, and, at the most, subject to reimbursement of certain costs. Some grants could be given to the NGOs for this purpose on a tapering basis. This whole new field has exciting prospects of building bridges with the society and getting over the present resistance to the concept of cost recovery.

Declaring NGOs as Partners in Development: World-over, it is increasingly accepted that NGOs need to be brought in, in the mainstream of development efforts by government agencies. The present adversarial relationship between government agencies and NGOs, based on mutual suspicion and distrust, needs to give way to one of constructive partnership and healthy respect for each other's concerns. The mindset that government knows the best is often at the root of this dysfunctional relationship. The NGOs too will have to cast away their present attitudes of looking down on anything which has to do with the government. A symbiotic relationship between government and NGOs can go a long way in building bridges of

understanding and speeding up the process of development and improving its content and impact.

Against this background, it is recommended that this responsibility may be entrusted to a Secretary to Government, without creating a new post, with a time-bound programme of action.

Media and Government: The present dictum of keeping the media at an arm's length has been largely responsible for disenchantment of citizens with their government. Currently, at best, a bureaucrat listlessly, and mostly disinterestedly, reacts to adverse reports and criticism of the functioning of the government in the print and electronic media. At worst, he simply turns a blind eye to such criticism and refuses even to take notice till the matter is raised in the State Legislature or Parliament. This is mainly due to the mutual feeling of distrust and suspicion between the media and the government.

It is time this relationship is put on a new footing. This would imply changing the Service Rules so as to cast an obligation on officers to supply factual information on all matters to the citizens and the media. The state government should permit all heads of offices in the field as also the designated senior officers in the offices of Heads of Departments and State Secretariat to interact with the media, in so far as their own work jurisdiction is concerned. This would mean the officers taking the initiative to give background briefing on important decisions of the government. Accessibility of officers to the media will also help in projecting the correct position on any matter to the media and avoiding, to a considerable extent, publication of reports based on incomplete or wrong information. Thus, pro-active role by bureaucracy *vis-à-vis* the media has to be an intrinsic part of any strategy for good governance.

At times, senior officers are subjected to unjustified criticism in the media. In some cases, this extends to motivated and scurrilous attacks on and character assassination of officers in the media. Needless to say, this causes demoralisation among upright officers, apart from, undeservedly, lowering the image of the government in the public. It is imperative that, in such cases, the chief secretary takes the initiative to issue a clarification on behalf of the government at the earliest opportunity. It is also

necessary that all assistance is extended to the concerned officer to file a complaint to the Press Council of India.

Orderly Release of Funds During the Year: A universal complaint was voiced by almost all officers that the funds allocated to the departments in the budget are not released during the year in an orderly manner and that far too many references have to be made to the finance department for prior approval for release of funds on ways and means considerations. The same is found to be true in respect of release of funds to ZPs. It was also rightly emphasised that large funds are released at the end of the financial year resulting in many irregularities in booking the expenditure. The committee had raised these issues with the finance department and was told that this situation arises mainly because of large expenditure approved during the year by way of advances from the Contingency Fund and supplementary demands. It was pointed out that there is no way in which all such expenditures can be accommodated in the total budgeted outlay for the year. While this may be true, some way must be found for the departments to incur expenditures in an orderly manner throughout the year. It is suggested that the finance department should work out the modalities for estimating the monthwise receipts and expenditures so as to give the departments latitude to work within the sanctioned grants for the year. Only large expenditures above a particular limit, as may be prescribed, should be incurred with prior approval of the finance department.

Appointment of Financial Advisors: Administrative departments have another complaint against finance department and this relates to the umpteen references and back references which have to be made to FD again and again. There is a lot of merit in this complaint. The trouble arises because the precepts of financial discipline have not been internalised in the administrative departments and have to be imposed externally from outside by FD. It is high time this system is changed. The state government should adopt, for this purpose, the system of financial advisors obtaining in the Government of India. Under this system, the financial advisor (FA) is responsible to the main finance only on certain broad budgetary matters. In all others, he works under the control of the administrative secretary. His CR is initiated by the administrative secretary and countersigned by the expenditure secretary. This question was examined in the past by the state government once or twice but the

financial advisor system has not been adopted in Maharashtra so far. It is recommended that this system be adopted as soon as possible.

The Term of Office-Bearers of Zilla Parishads: The term of office-bearers of zilla parishads and panchayat samities needs to be refixed at 5 years as it was earlier. Any shorter term does not enable the incumbents to acquire adequate experience and to contribute to any appreciable extent in the functioning of the organisation. It also frustrates the very objective of treating these organisations as training ground to prepare politicians to take up higher responsibilities at the state level. It is therefore recommended that the relevant Act may be amended accordingly.

Observing Certain Principles in Transfer of Work to Zilla Parishads: It is noticed that the state government has transferred a large number of schemes to zilla parishads from 2 October 2000. This was long overdue and this reversal of the trend of taking back the schemes from ZPs to the state sector is most welcome. However, two points need to be made in this context. **First**, unfortunately, a large number of schemes have been transferred on agency basis under section 123 of the Zilla Parishad Act instead of transferring them under section 100. This is a retrograde step and effectively keeps all the control over such schemes and the employees working in them with the state sector. It is a pity that even schemes in the agricultural, social welfare and cultural sectors which should be appropriately with the ZPs fall in this category. Accountability at the grass-root level cannot be brought about in this manner. It is therefore recommended that all such schemes which are currently transferred under section 123 on agency basis should be handed over to Z.P.s under section 100 as soon as possible. **Second**, excess and unwanted staff of various departments should not be transferred to ZPs as otherwise it will artificially reduce the burden of staff costs on the state sector and increase it for the ZPs where it will be much more difficult to downsize and get rid of the staff. It is necessary to remember that 100 per cent expenditure on such staff has to be borne by the state government in any case.

Strengthening Local Fund Audit: Large expenditures are now being incurred by zilla parishads and their subordinate bodies as also by urban local bodies. However, the audit of this expenditure leaves a great deal to be desired. Excluding class III (clerical) and class IV staff, the effective audit staff strength of this office is just about a 1,000 persons. With this staff, it has to discharge the responsibility for the audit of

village panchayats having income of above Rs 5,000/- per year, panchayat samitis, zilla parishads, and 'A', 'B' and 'C' class municipal councils, and a host of other institutions such as agricultural universities, SSC boards, Nagpur corporation and Nagpur Improvement Trust, 73 municipal education councils, and 262 other miscellaneous institutions. Thus, excluding VPs, the bodies to be audited by the Local Fund Audit annually are as many as 1294. As is to be expected, the work of audit is heavily in arrears in a large number of these institutions. Among these are the village panchayats and municipal councils. In the case of some of the latter, the pendency of the audit is often for a period of 10 years! In the case of village panchayats, the pendency is of over 3 years. In view of the large funds expended through these local bodies, this is a highly unsatisfactory situation. It is necessary that this whole matter is reviewed by the government urgently by undertaking a special study for the purpose.

Pendency of Audit Paras In Panchayat Raj Bodies: The report of Local Fund Audit for the year 1998-99 shows that there was delay in reporting compliance by panchayat raj bodies in 71,263 cases and the total amount of expenditure which was in question was to the tune of Rs 1,259.26 crore. It is further seen that in 90,692 cases involving expenditure of Rs 1,087.46 crore of audit objections, the final compliance was still pending. To put it mildly, this is a shocking state of affairs. Unless immediate remedial steps are taken, the very purpose of undertaking audit is likely to be frustrated. It is time this matter is pursued at the highest level and a time-bound programme is chalked out for the purpose.

Audit of Village Panchayats: There are more than 25,000 village panchayats(VPs) whose income is more than Rs 5,000 per annum. This is too large a number of VPs for the Local Fund Audit to handle. It is, therefore, proposed that this monetary limit may be stepped up to Rs 25,000.

The audit of VPs with annual income of below Rs 5000 is undertaken by the ZPs themselves. Five per cent of these cases, selected at random, should also be taken up by Local Fund Audit to check the quality and efficacy of the audit done by the ZPs.

The powers of acceptance of compliance of audit objections of VPs which are currently with the chief executive officers of ZPs need to be vested in Local Fund Audit, in respect of cases audited by them, for greater effectiveness of audit.

Make the Office Bearers Also Responsible for Lapses Brought Out in Audit:

Currently, the entire responsibility for any lapses noticed in the audit is placed on officers and staff. This is true even when certain decisions are taken at the behest of the office-bearers or any of the committees of Zilla Parishad. It is wrong to hold officers responsible, for example, in cases in which expenditure has been incurred under the emergency powers of the President of ZP. It is high time this practice is changed to hold responsible whosoever has taken the decision in question. This alone will bring in the requisite accountability amongst all functionaries.

Advisability of Substituting Audit by Chartered Accountants: In view of the size of the problem of auditing local bodies both in the panchayat raj and urban sector, the question whether audit of these bodies can be entrusted to the chartered accountants needs to be examined seriously. Such an audit will be basically voucher audit rather than propriety audit and may not meet the requirements fully. But a via media could be explored so that CAs can be asked to do the audit of these bodies and, over and above, Local Fund Audit can be done in a certain percentage of cases selected at random each year. It is suggested that a committee be appointed to go into all the relevant issues at a very early date and to submit recommendations to the government. It is hoped that final decisions can be announced thereon within six months from the date of undertaking such a study.

Major Issues Pertaining to Municipal Councils: There are 230 municipal councils in the state—‘A’ class 18; ‘B’ class 48; and ‘C’ class 164, including two Nagar Panchayats. Following issues pertaining to these bodies require close attention—

- (i) Inspections of these bodies have been grossly neglected. These bodies are supposed to be inspected periodically by the Director of Municipal Administration, Divisional Commissioners who are also the regional joint directors of municipal administration, Collectors and the Sub-Divisional Officers. The backlog of inspections is at all levels. It needs to be ensured that inspections will be carried out by all these officers according to the prescribed scale month after month so that all these bodies are inspected at least once in two years.
- (ii) The position of audit of these bodies is hopelessly in arrears. During the last ten years, as against the 230 municipal councils, the Local Fund Audit has not

done the audit of more than 69 councils in any year. The Local Fund Audit pays all its attention to the audit of the panchayat raj bodies as these are taken up for scrutiny each year by a committee of the Legislature. As a result, the staff meant for audit of VPs and urban bodies is diverted to complete the audit of ZPs and Panchayat Samities on time. By the end of 1999-2000, audits of 226 municipal councils were pending for various years, the oldest being 1990-91. This needs urgent attention. As suggested earlier, the audit of these bodies could alternatively be entrusted to the chartered accountants.

- (iii) It is necessary to bring in the accounting reforms in these bodies so as to maintain their accounts on double entry book keeping system and accrual basis. A study has already been undertaken for the purpose in collaboration with US-AID Financial and Institutional Reforms and Expansion (FIRE) Project. It will be necessary to undertake such pilot projects in four municipal bodies and thereafter to extend the new accounting system to all bodies by amending the accounting code.
- (iv) Audit objections have been totally neglected and there is no timely compliance. Hardly ever steps are taken to fix the responsibility and to recover the amounts disallowed by audit. Such audit paras are pending since 1960 and run into thousands. With increasing expenditures being incurred through such bodies each year, this is a very distressing and disturbing situation.
- (v) Currently grants are released to these bodies under 26 Heads. This has meant unnecessary work all round. The Director of Municipal Administration has rightly suggested that all such grants be released under one Head in a consolidated manner based on certain well defined criteria such as mobilisation of resources by a municipal body, recovery of arrears, staff expenditure as a percentage of revenue expenditure, capital works programme and so on. This issue requires urgent attention. The thrust must be to make the core services of municipal bodies self-supporting. MOUs may be signed with the municipal bodies to ensure phased improvement in their performance from year to year.

- (vi) It is necessary to undertake a special study for the reorganisation of the staffing patterns in these bodies, upgradation of skills, training, and a host of issues pertaining to manpower development in these bodies. It must be ensured that there are recruitment rules formulated for each post and these are followed scrupulously in all recruitments, promotions and placements. In several municipal bodies there are no key functionaries such as city engineer, auditors and so on. This deficiency needs to be rectified.
- (vii) There are a large number of vacancies in the cadres of chief officers. Efforts need to be made to fill up these vacancies expeditiously. It is seen that the question of amendment of 1983 Recruitment Rules is pending with the government for quite some time. The cadre management of chief officers leaves a great deal to be desired. Certain Class 'A' municipal bodies are headed by class III chief officers though these should be manned by class I officers. There is too much interference by the government in the transfers of chief officers. The powers of transfers should be permitted to be exercised by the Director and Joint Directors of Municipal Administration.
- (viii) State-wide cadres may be formed for the posts of city engineers, accountants and internal auditors. This will bring in the much needed independence in the working of these functionaries.
- (ix) Computerisation has been completely neglected so far in these bodies as also in the Directorate of Municipal Administration. A time-bound programme needs to be chalked out for the purpose.
- (x) Directorate of Municipal Administration has a staff of just 39 persons. If this office is to discharge its responsibilities adequately, substantial strengthening of this organisation will be necessary. A special study may be undertaken for the purpose. It is also necessary to delegate the government's powers to this office as also to the regional directors and collectors on a number of points. Looking to the functioning of municipal bodies, a multi-disciplinary vigilance cell may be established in this office to promptly take up and pursue suitable cases. The importance of this has been clearly brought out by the findings of Shri Nand Lal in the enquiries conducted by him in the affairs of a few municipal corporations.

- (xi) A statutory tribunal may be set up to decide all matters pertaining to disqualification of councillors, dissolution of municipal councils and other similar actions. This will take these actions outside the political purview and create a greater sense of confidence in all sections of society.
- (xii) It is necessary that the state government takes expeditious decisions on the reports of the state finance commission received from time to time. It took more than three years for the state government to announce its decision on the recommendations of the first state finance commission. The recommendations of the interim report of the second finance commission too are pending with the state government. This needs to be expedited. The state government should, as a matter of policy, announce its decisions on the recommendations of the state finance commission within a period of three months of the date of the receipt of the report.
- (xiii) Finally, a standing committee of the Legislature may be constituted for the urban local bodies on the same lines as the Panchayat Raj Committee. This will help greater and timely attention being paid to some of these matters, and particularly, the audit and accounts of these bodies.

Committees and Commissions Appointed by the Government and Follow Up Action

Thereon: It is seen that the government appoints several committees and commissions, including judicial commissions, to study certain matters in depth. Persons from several walks of life are asked to work on these committees and commissions. At times, senior officers are asked to study the matters in depth and submit a report to the state government. For example, the state government had, in recent months, asked special reports to be prepared in this manner in respect of affairs of Thane, Pune and Nagpur Municipal Corporations (Nand Lal and Joshi Committee reports). A report was also asked to be prepared on the reported starvation deaths of tribal children in the state. But, once their reports are received, they are, more often, straightaway consigned to archives or are kept as super secrets! In several cases, even copies of the reports are not readily available after a lapse of some time. The record of follow up action on the recommendations is exceedingly tardy. And this is not just the case with a commission such as Srikrishna Commission. A lot of work put in the preparation of the reports and formulation of recommendations is thus

totally wasted. Apart from leading to lot of infructuous expenditure, a valuable opportunity to create and educate public opinion on the respective subjects is lost in the process. To remedy these matters, the committee would suggest the following course of action in such cases:

- (i) The report of every committee, including an officer level committee, should be published as soon after its submission as is feasible. The publication of the report should not be held up for the translation of the report in English/Marathi. Such translation can be released later. It also need not be held up for the detailed consideration of the report by the government and the cabinet. While releasing the report, the government can announce that the government decisions thereon will be announced separately later. A recent noteworthy precedent in this regard is regarding the publication and release of the report of the Energy Review Committee (Godbole Committee) on Enron. This example needs to be repeated in the case of all such reports in the future.
- (ii) Every such report may be made a priced publication so as to make it easily available to the people at large. For publication and sale of such reports private publishing agencies may be utilised so that it can be available in bookstores freely and one does not have to approach the government printing press for the purpose.
- (iii) An action taken report on each report of the committee/commission may be placed before the legislature within a period of three months from the date of submission of the report.
- (iv) A statement of follow up actions taken on the report may also be placed on the table of the legislature at its each successive session, from time to time, till such time as all actions are completed.
- (v) Action should be taken to release all reports as above submitted to the state government during the previous three years, within the next three months positively.

All Stays to be Valid Only for Three Months: It is seen that stays are given in innumerable cases and they continue indefinitely as the person who has managed to get the action stayed is least interested in pursuing it and neither is anybody in the government concerned in the matter. It is seen that in several cases such stays have

led to postponement of recovery of government dues, taking possession of land and so on. It is therefore recommended that general order may be issued by the government that any stay given in a case will be valid only for a period of three months at the latest and if it is not vacated earlier, it will cease to have effect thereafter.

No Appeal Powers Need be Retained by the Government to Itself: There are a number of enactments under which final administrative appeals lie with the government. This is an archaic provision and is a vestige of the British days. There is no reason why the government need interfere in a matter which has been decided by a competent officer. If any person has a grievance, he should file a civil case against the government. This is important since in many cases such judicial powers are not exercised by the government properly. Such appeals are kept pending for months, and often for years together. Proper hearing is not given to the parties affected by the decision. No “speaking orders” are passed on the appeals. As a result, it is difficult to know the rationale for decisions in most cases, particularly when matters are decided against the government, that is, the public interest. The courts too have passed strictures in several such cases. It is therefore recommended that by one amendment, all such appellate powers which are with the government under various enactments, should be abolished.

Two Issues Pertaining to Revenue Department: Reference may be made to two specific issues pertaining to revenue department. These relate to grant of non-agricultural (NA) permission and conversion of leasehold lands into free-hold lands. The present policies in this regard are a vestige of the past and are not in keeping with the needs of rapid urbanisation in the state. Ideally, policies need to be adopted to do away with the requirement of NA permission subject to certain conditions being fulfilled, and conversion of leasehold lands into free-hold lands on payment of prescribed sums by the parties to the government. It is recommended that both these issues be examined in depth and early orders issued.

A Major Initiative Proposed For Guaranteeing Title to Land: The land records in the state create only a presumptive title in land. The Supreme Court has held more than once that land records is not a substitute for title documents. It is therefore necessary to adopt a system for registration of title to land or Torrens system of registration. Dr.

D. C. Wadhwa has done a pioneering study in this behalf more than a decade ago.<sup>5</sup> The study has been commended by the Government of India to the states for suitable follow-up action. This matter was examined by the state government way back in 1989-90 and it was decided to take steps to implement this crucial reform. It was also decided to take a pilot project in this behalf in Pune city. Unfortunately, there has been no follow up action so far.

The advantages of the new system are numerous. It will help in translating the land reforms in reality. It will reduce court litigation substantially. It will enable speedy sanction of loans by banks and financial institutions. It will help in speedy urbanisation. The new system will also increase the revenues of the state and local bodies substantially. Lastly, it will also create ample employment opportunities. Needless to say, it will create large-scale satisfaction all round. It is thus clear that this initiative will be welcomed by the people in both the urban as also the rural areas. The finances need not pose a constraint as the multilateral institutions such as the World Bank will be willing to fund such a project enthusiastically. It may be worthwhile to note in this context that such a project is being assisted by the World Bank in Thailand for the last 18 years and now it is in the final stages of completion. In the light of the above, it is recommended that Maharashtra should take a lead in this behalf in the country by launching a pilot project in one district and in one large city such as Pune immediately.

Privatisation of Registration of Documents: Under the existing procedures for registration of documents, validity of transaction is not looked into. Only certain procedural matters are looked into. These include the question of jurisdiction, whether proper stamp has been affixed, correctness of the description of the property, attestation of all corrections etc. These functions need not be done by a government agency and could as well be privatised as has been done in Canada where a private limited company has been registered for registration of documents. Only the quality and time standards may be laid down by the government. In the United Kingdom, this responsibility has been entrusted to an independent agency of the government. In this arrangement, certain percentage of the revenue can be given to the agency. It is

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<sup>5</sup> D. C. Wadhwa, *Guaranteeing Title to Land, A Preliminary Study*, N. M. Tripathi Private Limited, Mumbai, 1989.

suggested that these alternatives may be examined so as to transfer this activity to the private sector, or at least to an autonomous body outside the government.

An Interesting Issue of Accountability: During the discussions with the field officers, an interesting issue was raised by officers—their accountability should be to whom: the members of the public or the elected representatives of the people? In a sense, this is the crux of the problem in several areas and is a reflection on our democratic institutions and practices, even fifty years after Independence. This question cannot be evaded if the interest of the common person is to be safeguarded by the state government. Very often the interests of elected representatives and the people at large do not coincide. In such cases, the government must be seen to be solidly supportive of officers who stand up for the interests of the common person in society. Such an unambiguous stand on the part of the government would do a great deal to improve the morale of the services and image of the government.

Translating Democracy in Reality: It is interesting to see that, in India, the office-bearers of local bodies as also the ministers do not have to answer for their actions before the committees of the legislature. This is quite contrary to the practice followed in a number of countries the world over. Thus, for example, in the United States, it is the equivalent of ministers who appear before the legislature committees. There is no reason why the officers be asked to defend the actions of their political masters. It is recommended that Maharashtra should take a lead in this matter and decide that the office-bearers of local bodies and ministers should henceforth appear before the legislature committees. Necessary steps may be taken to amend the rules of the legislature committees in consultation with the presiding officers of both the Houses.

Excessive Interference of Mantralaya: A universal complaint voiced before the committee was that there is an excessive interference in the working of field offices from Mantralaya. The role of Mantralaya is to lay down policies. Their implementation must be left to the field offices. But, it is here that the Mantralaya wants to take a hand, and that too, not once in a while, but as a routine practice. This has led to special cases (*Khas Bab*) being made to agree to certain proposals in relaxation of rules. This is appropriately described as “You show me the man and I will tell you the rule!” This has also led to lower officers being called to Mantralaya

from the field to give direct instructions to them without keeping their immediate supervising officers informed. One evidence of this is to be seen in the throngs of people crowding the corridors of Mantralaya, a site hardly ever seen in any other country, particularly in the 21<sup>st</sup> century. This is real harking back to the days of princely states in the country! Unless this matter is dealt with, with a stern hand, it is unlikely to see any change. It is proposed that the government should take a conscious and categorical decision that the Mantralaya or for that matter any other level of the government shall not usurp to itself powers which belong to the lower levels and every decision will be taken only by the person who is competent to take such a decision under the powers delegated to him.

Quality of Decision Making: There is a widespread recognition of the fact in all knowledgeable circles that the quality of decision making in the government has deteriorated sharply. Decisions are no longer made by analysing the pros and cons of the proposals. Rarely, independent, free, frank and dispassionate advice is tendered on files. More often, decisions are taken first and then notes are recorded to justify them. Independent notings on the file are hardly ever appreciated. It is not uncommon to see officers being shifted for plain-speaking and calling a spade a spade. All this makes for a very sad and depressing reading, particularly in respect of a state such as Maharashtra. What is required to set the matters right is not only the administrative will but also the political will. It is hoped this will receive close and careful attention at the level of the government. Instructions need to be issued that adverse note will be taken in the CRs of officers who fail to give free, frank, and objective advice and do not bring to the notice of the government illegality, impropriety or any other weaknesses in the orders proposed to be issued by the government. It may also be clarified that the officers will be free to resubmit the files where they believe that a particular decision may not be taken for any reasons and that resubmission of the files in this manner will not be held against them.

Reducing Hierarchical Overtones in Administration: Quality of decision-making can also be improved perceptively by more free and open interaction between officers and staff at various levels without undue constraints regarding seniority. It has to be appreciated that all wisdom does not necessarily go with age. More often, younger persons can be expected to bring to bear fresh mind on the subject. It will be

necessary that this culture is promoted consciously and diligently by the senior officers and secretaries in government.

Segregation of Information Technology (IT) and Non-IT Streams: There is considerable scope for propagation of IT culture in government functioning. It is, however, necessary to realise that if any perceptible progress is to be achieved, the government will have to create conditions in which private sector capital can be invited to participate in these endeavours. Otherwise, there are limitations on the extent to which the state government can set apart funds not only for the initial capital expenditure but also for the recurrent expenditure as also the eventual replacement of these facilities by new state-of-the-art technology. The committee believes that it is imperative to work towards encouraging private sector investment to speed up the process of bringing in IT in the diverse fields of governmental activities.

This will imply acceptance of the following, among other, pre-requisites:

- (a) Identification of areas in which private sector participation, either wholly or in a joint sector with the government, can be invited;
- (b) Working out the estimates of initial capital investment as also the recurrent costs thereof;
- (c) Providing a reasonable rate of return on these investments;
- (d) Estimating the extent to which cost recovery is considered feasible;
- (e) Assessing the extent of cross-subsidisation which could be reasonably provided for to give relief to the weaker sections of society; and
- (f) Estimating the extent of the burden of subsidy which the State Budget will be prepared to bear from year to year to enable these schemes to stand on their own.

It is only by making such an assessment department-by-department that a realistic medium term phased programme for introduction of IT in governmental activities can be evolved and adopted.

Even after such an exercise, it will be seen that some activities will continue to be handled as at present, without computerisation, for some time to come. In respect of these activities, more conventional and well accepted, but hardly ever implemented, techniques of good governance will have to be followed in a time-bound manner.

It is equally important to note that unless substantial administrative reforms take place, we are likely to be left with splendidly isolated and (ephemeral) examples of e

governance at the field level.<sup>6</sup> The official hype over IT obscures the fact that IT is just the mechanism, not the content.

Computerisation—A Non-Starter So Far: It is disappointing to see that computerisation and information technology has not made any particular headway in Government of Maharashtra so far. There have been some honourable exceptions to this but these are due to the initiative taken by individual officers rather than any policy thrusts by the state government.

The state government formed a new department of information technology (IT) in 1998 and appointed a full time secretary in charge of the department. But, as is the bane of the system, there have been frequent transfers of the incumbent as also his Director. As a result, there has been no appreciable headway in adoption of IT in the state government. This is in spite of the fact that over 3,000 computers were supplied in the Mantralaya and the district offices and over a lakh of employees were trained in the use of computers at considerable cost. In a way, these were the comparatively simpler things to achieve. The more important part of preparing the application software and its adoption have been lagging behind. The department has no perspective plan for introduction of IT in the offices of the state government. There has been too much concentration of powers in the High Power Committee (HPC) under the chairmanship of Chief Secretary. In view of the above, the following points need closer attention and follow up action:

- (i) The IT Department should prepare a strategy paper and a perspective plan and have it approved by the HPC and the Cabinet for a close follow up by all departments. The plan should be realistic and not unduly ambitious as at the beginning of 1998 when it was expected to complete computerisation in all offices within a period of two years.
- (ii) Departmental committees need to be set up and authorised for drawing up and monitoring their own programmes. HPC should be only an appellate and supervisory body.
- (iii) Any important initiative aimed at computerisation taken by any office or organisation should be closely examined so as to replicate it all over the state

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<sup>6</sup> S Vijay Kumar, 2001: A Cyberspace Odyssey, *The Economic Times*, January 9, 2001.

in other similar offices, rather than leaving it to each office to reinvent the wheel.

- (iv) While prioritising the areas of computerisation, preference should be given to those areas in which there is the largest public contact and where it is likely to make the interface with the public easy, accessible, open and transparent.
- (v) Effort must be made to bring in as much private sector investment as possible in the programme. It will be impossible for the government to find enough resources for the programme from its own budget. A series of recommendations have been made in this behalf elsewhere in this report.
- (vi) IT Department will need to be strengthened with considerable technical staff if it is to be able to discharge its responsibilities adequately.
- (vii) It must be ensured that the Secretary, IT, and his crucial staff have a minimum tenure of three years in the posts in which they are appointed so as to enable them to show concrete results.

Inter-Departmental Connectivity Through Computerisation: Ways need to be found to improve the lethargic pace of functioning in the Mantralaya. One common complaint often heard is that a file is not traceable. There is no reason why movement of all files in Mantralaya cannot be computerised. This could show not just the movement of the file but also the time taken for its disposal at each stage. Such a step should not take more than a few months to achieve. This is just an illustration of the kind of application of IT which can be attempted to get over the present problems.

Sanctity of Cabinet Papers and Decisions: A striking observation which was often repeated during the discussion of the committee was that cabinet notes are often prepared in a hurry and adequate time is not given for their preparation. At times, remarks of all concerned departments are not incorporated in the cabinet notes. There have been occasions when even finance department's comments were not recorded in the note and that department was asked to give its comments orally in the meeting. There have also been instances of files pertaining to cabinet notes having been rushed without giving adequate time to the departments to examine the issues and to give their comments thereon. Instances are not wanting where certain decisions have been taken in the cabinet even without the matter having been brought up before the cabinet formally. All this is a sad commentary indeed considering the fact that

cabinet is the highest decision-making forum in the government. The common perception that cabinet decisions are always well considered and mature is belied with such functioning. Any talk of good governance will be futile if these matters are not rectified. It is recommended that suitable instructions may be issued in this regard for strict adherence by all concerned.

Develop Management Information System (MIS) for Each Office: The committee made enquiries whether MIS had been introduced in any of the offices. Almost all responses were in the negative. It is imperative that MIS is developed by each office to monitor such of the items of its work which require close attention. Ideally, MIS is expected to separate the grain from the chaff. Unnecessary cluttering up of information can defeat the very purpose of monitoring the performance of lower formations. It is recommended that each head of office, head of department and departmental secretary be directed to formulate MIS to suit their respective requirements and to review it once in six months so as to update it as may be necessary.

Too Many Levels of Decision Making In Mantralaya: Currently, a file has to pass through too many officers before a decision is arrived at thereon. The experiment of level-jumping has not been given a serious trial. The desk officer system has not made any headway. It must be laid down that each file must not pass through more than two levels before it reaches the decision-making level. If this is to be successful, the posts of under secretaries and above must be reduced considerably. Large number of secretaries have expressed a view that the departments generally have larger staff than is warranted.

Compilation of GRs be Published Every Year: Government functions on the basis of government resolutions (GRs) but, for a common person, it is impossible to lay his hands on these GRs. Often, they are also not available even in most offices. The staff in these offices refuse to accept that GRs are public documents and people have every right to have a copy of the GRs. The GRs published in government gazette are mostly like super secret papers from the point of view of the common man as the gazette itself cannot be easily accessed by them. It is therefore suggested that each department of the government should bring out an annual compilation of GRs and it should be a priced publication.

Institution of *Palak Sachiv*: We are never tired of making gestures to take the government to the doorstep of a common person. Towards this end, we, in Maharashtra, invented the institution of *Palak Mantri* (parent mantri) for each district. As the newsreports from time to time show, this experiment has been far from successful. Now the government has instituted the practice of designating secretaries as *Palak sachiv*. But this too has not served any useful purpose and has sapped the initiative of the local and divisional officers. It is suggested that this institution be scrapped.

Designating Collectors and CEOs as Team Leaders: Any team cannot have more than one team leader. It is high time this fact is recognised by the government. It is suggested that for the state sector officers, the team leader be the collector and for the decentralised panchayat raj institutions, it must be the CEO. This would inevitably mean giving powers to these officers to write the CRs of all officers of their team. This is an issue which the state government has pushed under the carpet for too long. It is in the interest of good governance that these powers are given to these officers.

Limited Scope for Division of Talukas and Districts: In recent years, there have been frequent announcements of division of talukas and districts. It is necessary to examine the relevant issues keeping in mind a few salient features. **First**, creation of infrastructure, both physical and manpowerwise, is a very costly proposition and would add on to the burden of pay and allowances. The state is already groaning under this weight. **Second**, with the spread of information technology, there is no need to create more revenue jurisdictions. This is prominently seen from the experience of Andhra Pradesh. **Third**, with the downsizing of the government proposed in this report, the responsibilities of the government itself will get reduced substantially. **Fourth**, with improved road communication network, it is not difficult for people to commute as it used to be in the earlier days. In the light of the above, it is proposed that the government may make a policy announcement that it will not create any new talukas or districts.

Training of Non-Officials: One area which has been neglected so far in Maharashtra relates to the training of non-officials. Such a training need not be confined only to the office-bearers of urban and rural local bodies though even their training has not been completed so far. It is necessary to devise training modules of different kinds

and duration's to suit the requirements of the non-officials. It is necessary to underline that administration is both an art and a science. The administration has also to be conducted keeping in view the requirements of public accountability, transparency, openness, sensitivity and integrity. Above all, the rule of law should never be permitted to be compromised. It is imperative that these standards are brought home as much to the non-officials as to the officials. It is therefore recommended that a comprehensive programme be chalked out to undertake and complete the training of all non-officials, including MLAs and MPs, during the Tenth Five Year Plan starting from 1<sup>st</sup> April 2002.

Laying Increasing Stress on Gram Sabhas: After the 73<sup>rd</sup> amendment of the Constitution, Gram Sabha is to occupy a prime place of importance in village administration. Ideally, all village level officers must be answerable to the Gram Sabha. All important developmental issues must be placed before the Gram Sabha twice in a year and more often, as may be necessary. This will bring about a qualitative change in administration at the village level. However, for this purpose, it will have to be ensured that the Gram Sabhas are properly held and conducted and do not become a mere ritual. It is recommended that the performance of Gram Sabhas be evaluated with the help of well known NGOs so as to take such corrective action every six months as may be necessary.

## **VI. Civil Service Reforms**

Setting Up Statutory Civil Service Boards: Transfers, postings, promotions, and disciplinary and other personnel matters, pertaining to higher civil services, are dealt with, at present, in an *ad-hoc* and secretive manner. The question of minimum tenure of 2-3 years for secretaries to government and heads of departments and important organisations such as Commissioner of Police, Mumbai, has assumed importance due to frequent changes of incumbents of these posts. It is necessary that all such matters are handled in a non-political, non-partisan, open and transparent manner so as to improve the morale of the services by setting up a statutory civil service board for All India Service officers and state civil service officers, to begin with. The recommendations of such a board must be binding on the government. If, for any reasons, the government decides not to implement the recommendations, it must be incumbent on the government to pass a self-contained order on the subject and to

place a statement on the subject on the Table of the Legislature at its very next session.

The Board may consist of four members, namely, chief secretary who will be the chairman, a retired judge of high court, and two retired officers of the rank of chief secretary in the State or secretary to Government of India . Secretary (Services) of General Administration Department may serve as the secretary of the Board. The Secretary and the Head of the Department of each department may be permanent invitees at the meetings of the Board at which their proposals are considered.

Legislation on Transfers: Frequent and untimely transfers pose a number of problems for government employees. These include: finding suitable and affordable residential accommodation; admission of children in schools and colleges, particularly in the middle of the academic year; difficulties in getting permission for transfer of children studying in professional institutions; and wives, who are in full time employment, not being able to get transfer to the new location. This often means keeping establishment at two places, causing lot of financial and other worries for the employees. All this affects the efficiency and morale of the employees. Frequent transfers also mean considerable avoidable expenditure for the government. Interference in transfers by non-officials compromises the discipline in the services and leads to their politicisation, apart from leading to corrupt practices.

Against this background, it is recommended that the state government should undertake a legislation on transfers and the following, among other, principles may be incorporated therein:

- (i) Transfer will not be ordered as a punishment to an employee. If an employee is found remiss in his duties, he will be proceeded against departmentally.
- (ii) All employees with good record will be transferred, by rotation, to remote, inaccessible and tribal areas for a period of three years. Wherever educational and other facilities are not available, the place of posting will be treated as a non-family station and the employee will be held eligible to retain government accommodation at the previous place of his posting or he would be given house rent if he chooses to retain his family elsewhere.
- (iii) Every transferable government employee will be retained at one station for a minimum period of three years.

- (iv) No employee will be retained at any station for more than six years comprising two postings of three years each in two offices located in the same station.
- (v) If an employee is transferred within a period shorter than three years, it will be for special reasons such as his promotion, commencement of a departmental inquiry against him and so on. These reasons will be communicated in writing to the employee before effecting his transfer and he will be given a reasonable opportunity to give his say thereon.
- (vi) All transfers will be effected only during the summer vacations of the academic institutions.
- (vii) As far as possible, husband and wife who are employed in the same or different offices will be posted at the same station.
- (viii) When transfer is effected at the choice of an employee, he will not be eligible for transfer T.A.
- (ix) As far as possible, suggestions of employees, who are due for transfer, will be called regarding the places where they would like to be posted and these will be taken into account while finalising the transfers.
- (xi) Wide publicity will be given to the names of employees and officers who try to bring pressure for their transfers, along with the names of those who interceded on their behalf. This will be apart from starting departmental action against them
- (xii) An employee may be appointed in his home town/tehsil/district for a period of two years prior to his retirement so as to facilitate his making post-retirement arrangements.

The Government of Maharashtra has issued executive orders on 27 November 1997 laying down the policy guidelines for effecting transfers of employees but these are observed more in breach. During the transfer season, the Mantralaya is overflowing with applicants seeking the transfers/cancellation of transfers and their supporters and may one of these days may collapse under their weight! The “transfer bazaars” have been so disconcerting that opinion in several states is veering round to passing of laws or framing of rules governing transfers. Thus, the Karnataka Administrative Reforms Commission has recommended that only a legislation on transfers would help to curb the maladies that are associated with the present transfer process. The

Commission has accordingly recommended passing of the Karnataka Transfer Regulation Bill.<sup>7</sup>

The Rajasthan Administrative Reforms Commission is of the view that the transfer policy framed by the state government should have a legal force by incorporating some basic principles in the Rajasthan Service Rules. Alternatively, this policy may be notified by the state government in the form of separate rules under Article 309 of the Constitution so that the policy framed by the government may be strictly followed by all concerned and violations, if any, may be viewed seriously.<sup>8</sup>

Bar on Extension and Re-employment: *Ad hoc* extension in service or re-employment of a few favourite officers cause considerable demoralisation in services due to the limited promotion opportunities available at higher levels. Playing favourites also leads to officers adopting a policy of not displeasing their political masters. If an officer is expected to be objective, fearless and non-political, he should have no allurements of any kind before him. Whatever is due to him must come in its turn, provided he deserves it on the basis of his work and merit. It is, therefore, recommended that the state government should make an unambiguous policy announcement that in future no extensions in service or re-employment will be allowed in any case, at any level.

Amendment of Civil Service Rules: We have earlier recommended a number of steps for ushering in good government. In this context, we have briefly dealt with issues pertaining to the larger involvement of NGOs, social audit, and the need for putting the relationship with the media on a new footing. All this will be possible only if the civil service rules and regulations make it obligatory on a government employee to give factual information to the citizens, media, NGOs and so on. The present mindset of the bureaucracy to treat all information as secret will have to be changed and a new culture of openness will have to permeate the government offices. Towards this end, it is recommended that the relevant rules and regulations may be amended to make it obligatory on the part of every government employee to part with all information except that which is marked confidential, secret or top secret. The

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<sup>7</sup> Government of Karnataka, *Ibid*, p. 95.

<sup>8</sup> Government of Rajasthan, *Reports of Administrative Reforms Commission, Vol. I*, March-June 2000, p. 247.

legislation on right to information cannot go far enough, unless a beginning is made with the amendment of civil service rules as above.

Principal Secretaries and Additional Chief Secretaries to Government: These posts which are currently treated as inter-changeable with those of secretaries to government need to be treated separately in view of the fact that they carry higher pay and are manned by officers above a certain seniority in the Service. The committee recommends that these posts should be treated as supervisory posts over those of secretaries. This is particularly necessary since there are now a surfeit of posts of secretaries. Almost all departments have been bifurcated and trifurcated and separate posts of secretaries have been created for them. It is recommended that the posts of secretaries should be grouped together and put in charge of a Principal secretary or Additional Chief Secretary to ensure better co-ordination, supervision and output.

It is also recommended that one of these posts may be designated as Agriculture Production Commissioner and all relevant departments of the government dealing with agriculture, including marketing, dairy development, and others may be put under his overall charge for better supervision, co-ordination and direction.

Reduction in the Number of Posts of Secretaries: The number of posts of secretaries in the state government can be easily reduced to 45, if not lower, from the present strength of 58--this includes a full time post of secretary for the Maharashtra-Karnataka border dispute! Correspondingly, the posts of Principal Secretaries and Additional Chief Secretaries also need to be reduced. If down-sizing the government is to be achieved, the action must begin with the top. Simultaneously, the strength of the council of ministers in the state should also be brought down to 45 as was the case for a long time in the state. A firm policy should be laid down that these numbers will not be permitted to go up to meet the exigencies of the situation.

Need of More Purposeful Cadre Management: The proliferation of higher level posts is seen in all services, whether belonging to All India Services or the State Services. Currently, there are 4 Directors General of Police (DGP) and there are 17 Additional DsGP. There are 6 Additional Chief Secretaries and any number of Principal Secretaries. There are nearly a dozen officers of the rank of Secretary in Irrigation Department, including its corporations. These examples can be multiplied. While the state government is creating so many posts for accommodating the claims of officers

for timely promotion, the central deputation quota is remaining unfilled. Thus as against the central deputation quota of 44 posts for the IPS, only 27 have been filled up. All India Service officers are increasingly reluctant to go on deputation to the Centre. If this is to be permitted, why have the All India Services at all? The whole question of proliferation of higher level posts needs to be looked into by an outside expert committee to give a dispassionate and objective advice to the state government. It is recommended that such a committee be appointed very early.

Reduction in the Number of Departments and Heads of Departments: During the last few years there has been proliferation of departments and heads of departments in the state government. During the decade of 1990-2000, as many as 11 new departments were created in Mantralaya leading to large proliferation of bureaucracy. These decisions have been taken in an *ad hoc* manner without any concern for the substantial increase in non-developmental expenditure that they lead to. It is proposed that the number of departments may be curtailed substantially. The posts of heads of departments may also be reviewed as soon as possible so as to reduce their number to the barest minimum.

Review the Manpower in PWD and Irrigation Departments: A large number of corporations have been created in recent years for irrigation and roads and bridges projects. In spite of this, the strength of these two secretariat departments has not been reduced to any appreciable extent. The number of senior level and other posts in Mantralaya and these corporations has multiplied without any concern for the workload of these departments and the corporations. This is a classic case of the Parkinson's Law being in operation! It is suggested that these matters be reviewed on a priority basis to bring about substantial reduction in non-developmental and even developmental expenditure as large number of these redundant posts are shown against Plan expenditure!

Give Up Sanctioning Staff Separately for Each Scheme: The present practice of sanctioning staff separately for each scheme and programme has led to substantial over-staffing in a number of departments. One classic case of its kind is the agriculture department. There is similar over-staffing in several other departments. The time has come to take a ruthless review of all such departments and to stop the

practice of sanctioning staff schemewise, without taking into account the extent of over-staffing in any office.

Introduce a Voluntary Retirement Scheme: The state government should seriously examine the question of introduction of a voluntary retirement scheme (VRS) keeping in view the downsizing of the government underlined in this report. The objective must be to reduce the staff by 30 per cent in the next five years. Looking to the over-staffing in the government, this should not be difficult.

Commission a Study for Introduction of Scheme for Contributory Pension Scheme: The burden of pension payments has gone up considerably. The pension scheme of Government of Maharashtra has also been made applicable to grant-in-aid and approved educational institutions, zilla parishads and agricultural universities. In 2000-2001, there were 5,07,360 pensioners in the state and the liability of their pension, gratuity and other retirement benefits was Rs 2,657 crore. The burden of pension payments is going to increase substantially due to a large number of aided institutions which are recognised each year. It is necessary to seriously explore the possibilities of changing over to a contributory pension scheme in place of the existing scheme in which the entire burden is borne by the government.

Supersession of Officers for Promotion: At present, there are hardly any supersessions of officers at various levels. This is particularly true of All India Service Officers. The committee would recommend that a system of empanellment at various levels starting with the senior time scale should be started as is the case in respect of joint secretaries and above in the Government of India. Any officer who is superseded may be reconsidered for empanellment only after a period of two years from the date of his rejection in the empanellment. It is also recommended that the present system of promoting all officers of the same batch simultaneously should be given up and persons may be promoted only when a vacancy in the higher grade occurs.

Review of Officers and Staff on Completion of 50-55 years of Age: The existing orders require that a rigorous review be made of the performance of officers on completion of the age of 50-55 years to prematurely retire those whose performance is below the mark. This practice has fallen in disuse as can be seen by the minimal number of officers retired on attaining the qualifying age. It is recommended that

strict instructions be issued to retire at least 10 percent of officers on completion of 50 years of age and further 20 per cent on completion of 55 years of age. Such rigorous scrutiny will bring about a qualitative change in the working and productivity of officers and staff.

Appointment of Vigilance Officers from Outside the Department: In certain large departments such as agriculture, education, health and others, there may be some advantage in appointing officers from outside the concerned department to attend to matters such as vigilance enquiries, departmental enquiries etc. This will ensure independence and even-handedness in handling these matters without coming under the influence of anyone and improve the tone of administration.

Lack of Motivation, Particularly Among Lower Level Staff: One issue which came up prominently before the committee was regarding lack of motivation to lower level staff in field offices. In most cases, they have nothing to look forward to in terms of promotion prospects and therefore feel that their good work is unlikely to be rewarded. A special scheme will have to be devised to improve the motivation of such staff. If the extent of downsizing of the government proposed in this report is achieved, the government could consider giving merit based increases in pay more liberally to such staff. If necessary, a special study be undertaken for the purpose. However, any package of incentives arising out of such a study should be implemented only if overall reduction in staff as envisaged in this report is achieved over a five year period.

Improving the Morale of Bureaucracy: For various reasons, the morale of bureaucracy is at a low ebb. This is partly due to the freezing of the D.A. and certain other benefits to employees. It is necessary to underline that the terms of service of government servants can be improved only if their numbers are reduced perceptibly. The aim must be to have, as in several other countries, a small, compact, well trained, efficient and highly paid bureaucracy which will not have any temptation to take resort to corrupt practices. But clearly, we are a long way off from this objective.

The low morale is also partly due to the sullied public image of a government servant and the harsh criticism heaped on bureaucracy by all stakeholders in society. There have been several instances of government servants having been physically beaten up and manhandled by people and their elected representatives in a number of places.

The state government has hardly ever taken any action against such persons. A number of steps proposed in this report will go a long way in rehabilitating the image of bureaucracy in the public. But, these matters require careful attention both at the administrative and political levels.

Accommodation for Officers Visiting Mumbai: A large number of field officers are called for meetings in Mumbai. However, there is no proper residential accommodation for such officers. Often, officers have to spend the night in the car or even on the railway platform. Those who are posted at reasonable distance from Mumbai try to leave Mumbai for their headquarters as soon as the meetings are over. This is a shocking state of affairs. The old MLA's hostel is also not available to the officers to stay for even a day or two. It is surprising that this subject has not received the attention of the authorities in the state government for all these years. It is recommended that a suitable building may be constructed for the purpose as soon as possible.

Timely Disposal of Departmental Enquiries: This subject is as old as the administrative reforms themselves. Various ways adopted so far, including creation of posts of special enquiry officers, have not helped in speedy disposal of departmental enquiries. Thousands of departmental enquiries are pending in various offices. It is seen that in major enquiries, the average time taken for the disposal is as long as five years. There are several enquiries which have been continuing for over 10 years and often have to be closed only on the death of the incumbent. Even minor enquiries take 2-5 years to complete. Lok Ayukta too has invited attention to the seriousness of this problem in his annual reports. This whole subject needs to be studied afresh to devise ways in which minor enquiries can be completed in six months and those involving major punishments, within one year.

Giving the CEOs of ZPs the Same Powers as the Municipal Commissioners: The responsibilities of CEOs have increased manifold but their powers have remained the same. This is adversely affecting the working of ZPs. The following fourfold action is therefore proposed: (i) It is necessary that the CEOs are given the same powers as the municipal commissioners in so far as their subordinates are concerned. (ii) They should have powers to initiate CRs of all officers working under them. (iii) They also need to be given powers to transfer the officers within the district. (iv) They

should not be held responsible for or asked to defend the decisions taken by the Zilla Parishad or any of its committees. This responsibility should lie with the office-bearers.

Reinstating the Powers of Divisional Commissioners: The powers which were vested in divisional commissioners to transfer staff within the division have been withdrawn by the government. For more effective control, it is incumbent that these powers are given back to the commissioners. Simultaneously, a review may be carried out and such of the other powers which have been withdrawn from them may also be re-vested in them.

Annual Awards for Whistle-Blowers: A reference was made earlier to enactment of a special law for giving protection to whistle-blowers. In addition, it is proposed that the state government should institute annual awards for recognition of the contribution made by such persons in exposing wrong-doings in the government.

Field Inspections Need to be Revived: The old system of inspections of field offices, field and village visits has fallen in disuse in all departments. Due to the curse of meetings held at short notice and visits of ministers, a convenient excuse has become available to the officers to shirk their responsibilities in this behalf. It cannot be denied that field visits and inspections prove most effective in keeping a close watch over the administrative machinery and assessing the real situation on the ground. It is recommended that the past practices in this regard be revived and followed scrupulously in future.

Introduce Rotation Between Mantralaya and Field Staff: There is a widespread feeling that the Mantralaya has lost touch with ground realities and the staff in the secretariat does not know the field conditions. At the same time, the field staff does not know how the Mantralaya functions and the kinds of considerations which weigh in arriving at policies. It is suggested that officers of the rank of under secretaries and above be periodically sent on field postings for a period of 2-3 years. Simultaneously, the field officers be posted in Mantralaya for a similar period. This is equally relevant for the rotation of the staff working in the field and that posted in the desk jobs in offices. Greater interchange and rotation will improve the quality and speed of decision making in the offices.

Expenditure on Visits of Legislature Committees, Ministers and Senior Officers:

Normally this subject is a taboo and hardly anyone dares to speak about it openly. But, any discussion on good governance will be incomplete, if no reference is made to it. There are always some honourable exceptions, but, by and large, more often than not, the field staff has to collect contribution to defray such expenditure. This in turn leads to corrupt practices on the part of the staff. It is imperative that this age-old practice is put a stop to. It is recommended that strict instructions may be issued in this behalf by the state government. The matter, in so far as it relates to the committees of the Legislature, may be taken up with the Speaker of the Assembly and Chairman of the Council for appropriate action.

Lack of Support from Higher Bureaucracy: A common complaint voiced by junior officers and field staff was that the secretaries in the department were not interested in understanding their problems and were most reluctant to support them whenever situations arose. The most common response was the admonition by senior officers to the subordinates to handle the matters themselves and not to bring the problems to them. With this attitude, the junior officers and field staff have nowhere to go to and have necessarily to fall in line with the diktates of political masters, politicians and local heavy weights. It is imperative that this situation is changed for the better as soon as possible. The chief secretary, additional chief secretaries and principal secretaries must take a lead in the matter. Without improvement in the morale of the bureaucracy, no improvement in its performance will be feasible.

**VII. Towards A Citizen-Friendly and Open Government**

The prime mover of the efforts to make the government citizen-friendly, open and sensitive will be the passing of the amended law on right to information by the State Legislature. It is, however, necessary to realise that this, by itself, will not be a magic wand unless simultaneous efforts are made in a number of areas to radically change the functioning of the government. Most of these actions, in fact, will go a long way to enhance the impact of empowering citizens through right to information.

The curse of “Special Cases” (*Khas Bab*): The working of the state government is littered with so-called special cases which do not fit into any rules, regulations, executive orders and have to be treated on special footing by making an exception to the rules. Of the crowds thronging the corridors of Mantralaya and field offices,

majority of persons are sponsoring such special cases. It is time this menace is put an end to. The committee recommends that each month a list of such special cases made in each department be published along with the names of those who sponsored the request. A statement giving such details may also be placed on the table of the Legislature at each session .

Upkeep and Maintenance of Government Offices: A reference must be made to the fact that most government offices present a shoddy, dusty and neglected look. Even the name boards of several offices are rusted and not properly painted. Thus, from the moment a citizen enters a government office, he is put off by its appearance, even before he has come in contact with the staff working in it! Working in such environment also adversely affects the efficiency, productivity and motivation of the staff. While this is partly due to the lack of interest of the head of the office, it will have to be admitted that this is largely due to inadequate provision for maintenance of government buildings in the budget of the state government year after year. In several cases, this has meant criminal neglect of buildings of historical or heritage interest. It is suggested that in the budget of 2002-2003 this may be rectified by making full provision for proper maintenance of all government offices and their compounds, so as to spruce them up in a perceptible manner.

Office Discipline: There is a widespread feeling in the people that government does not function any longer for the common person at all. It may seem harsh but some go to the extent of describing the government as “ of the employees, by the employees and for the employees”. It will be wrong to brush aside this public perception. Closer introspection will show that it is not far from true. For an outside observer, the employees do not seem to be accountable to anyone. They come to and go from the offices as and when they please. Officers and staff are away from their offices for a long time, often without adequate justification. All this will have to change if good governance is to be a reality.

It is suggested that all employees, including the Secretaries to Government, should wear name tags while on duty in their offices. This will be one major step forward in inculcating a sense of accountability in administration. This practice already obtains in a few offices and now needs to be universalised. This is a standard practice in some other countries in the public and private sector.

The Curse of Meetings: It will not be wrong to say that the day of a government officer begins and ends with one meeting or the other. There is hardly any time to think. The devise of holding meetings was meant to speed up decisions and reduce lengthy, clerical and fruitless notings on files. But, in a typical Indian way, we have made a mockery of the system. There are just too many meetings scheduled every day. Often participants do not have time to read even agenda papers and they attend the meetings without any forethought or preparation. Officers have to rush from one meeting to another. Several of these meetings are called at a short notice. Meetings have also become a devise to evade any responsibility for decision by everyone as it is supposed to be a decision by a group. With too many meetings each day at which their presence is insisted upon, officers are unable to go on tour or to carry out inspection of the field offices. It is time all this is changed. It is recommended that the following principles may be observed for holding meetings in future:

- (a) Unless it is really necessary, meetings should not be called in a routine manner.
- (b) Unless the matter is of extraordinary importance and urgency, no meeting be convened without giving a three days notice.
- (c) Unless it is impossible to do so, agenda notes for every meeting be circulated at least two days in advance.
- (d) Detailed proceedings of the meeting be recorded and not just the decisions taken at the meeting.
- (e) Thursday should be declared as a meetingless day. Wide publicity should be given to this decision.
- (f) No meetings be convened between 1 p.m. and 4 p.m.
- (g) When not on tour, all officers should set apart, on each working day, time between 2 p.m. and 3 p.m. for meeting visitors without prior appointments. Visitors with prior appointment should be given time between 3 p.m. and 4 p.m. This should be widely publicised.

Slavery of Information: It is generally believed that information is power. But, it is rarely recognised that too much of information can become a drag on the system. This is particularly important in the age of information technology. It must be realised that collection and collation of information is time consuming. Every information sought from the lower formations must be scrutinised on the criteria of

the use to which it is going to be put. Reduction of man-hours spent in collection of unnecessary information can lead to considerable enhancement of efficiency and productivity of an organisation. It is recommended that all information which is being presently collected should be scrutinised on this basis to curtail the collection and collation of information wherever possible.

The other corollary in this regard is equally important. Information should not be unnecessarily permitted to be transmitted to levels where it is unlikely to be used meaningfully. Present information-gathering practices be examined on this basis as well.

Delegation of Powers: Excessive concentration of powers has been the bane of the governmental system through ages. There is not only a resistance at the higher levels to delegate powers, but there is also the reluctance, if not resistance, to use the delegated powers. It is not, therefore, unusual to see the files marked to senior officers with remarks, “May see before issue”, “May see after issue”, or just “For information”! It is necessary to ensure that powers are not only delegated but are actually used by those to whom they are delegated. Orders need to be issued that an adverse note will be taken in the confidential record of an officer if he is found to be not using the delegated powers. Similarly, officers who show reluctance to delegate powers also need to be identified in their confidential records.

With the spread of IT, there is a real danger of decision-making getting concentrated at higher levels in administration. Efforts will have to be made to avoid this scrupulously as it will sap the initiative at the lower levels. This aspect may be specifically brought out while issuing orders of delegation of powers.

It is normally laid down that delegation of powers may be “periodically” reviewed. This, in practice, is found to be ineffective and unworkable. It is necessary to institutionalise the practice by laying down that delegation of powers will be reviewed by all departments of the government in a particular month every two years. The Administrative Reforms Department may be entrusted with the responsibility to watch its compliance on a State-wide basis. It is proposed that the orders of fresh delegation of administrative and financial powers may be issued in January 2002, and in every alternate January thereafter (January 2004, 2006, 2008, and so on.).

It is seen that, in most cases, orders of delegation are not based on any detailed analysis of cases received in various offices with the intention of reducing unnecessary references to higher officers. It is also noticed that, hardly ever suggestions regarding delegation of powers are called for from lower offices. This needs to be rectified. In future, the exercise of delegation of powers should be initiated at least three months prior to the month in which the final orders are to be issued, i. e. in the month of September of the year preceding the year in which orders are to be issued.

It should be possible to issue clear guidelines in complicated cases where powers are to be delegated. It could be laid down that only where a case cannot be decided on the basis of the guidelines that a reference need be made to the higher office.

The powers must be exercised at the level at which they are delegated. No higher officer or Minister should usurp the powers in any way. This will be the only way to take the government to the people where they can approach the empowered officer easily.

The delegation must separately cover both administrative and financial powers.

The delegation of powers as above must be given wide publicity with a request that the citizens need approach only the concerned officer and no one else.

Reduction of Paperwork: Government offices in India are repositories of tons and tons of paper. As someone has observed, the red-tape used in files in government offices can girdle the earth several times over. Partly, this is due to the tendency to hold a person responsible for anything done by him years ago and even up to four years after his retirement. There is, therefore, a tendency to reduce everything to writing. It is only the written word which holds the sway. This phenomenon is also largely due to the tendency to look at everyone with suspicion, unless he is proved to be honest! As a result, age-old systems of maintenance of accounts, files and registers have continued without any significant change, leave aside any radical reform.

In a number of Western countries, people are talking about paperless offices. The United States has a law--Paperwork Reduction Act--to address this problem. But, in Indian situation, this is easier said than done. In fact, it is not even easy to say it with the cobwebs of old and out-dated ideas in the bureaucracy.

Information technology is also not a complete answer to the problem, as otherwise, a country like US, which is so advanced in computerisation in government offices, would not have been serious about strict adherence to the Paperwork Reduction Act. Further, as stated earlier in this report, it will take quite some time to bring in IT in all departments of the government, at all levels, unless private sector is brought in on a large scale. This would imply making all these efforts self-supporting. This again poses a number of challenges, including those of cost recovery. Thus, in the intervening period, there is no escape from looking at systemic changes which can be brought in, in a time-bound manner. One of the main thrust areas in these efforts will have to be that of paperwork reduction. It is necessary to underline that merely issuing a government fiat in this regard will not serve any purpose, unless nitty-gritties of the functioning of departments are gone into minutely to identify the areas for effecting change, not only in the procedures but also the rules, regulations, and so on.

It is further recommended that, in respect of departments and organisations in which it may not be possible to introduce IT in the immediate future, studies of existing rules, regulations, procedures and conventions may be undertaken to attend to the task of paperwork reduction in right earnest. A pilot study of two departments may be taken up in hand immediately and completed within three months. Efforts can then be made to replicate the results in other departments.

Simplification of Forms: As a part of this effort, all government and local body offices may be asked to carefully scrutinise, within a period of three months, all existing forms prescribed by them so as to combine, revise and simplify them, wherever possible. The best way to go about it is to ask the office staff itself to sit down and fill up some of these forms to enable them to appreciate how unintelligible and confusing they can be! It will be interesting to note in this context that all government offices in the United States are required under the Paperwork Reduction Act to explain, before any new form is prescribed or additional information is called for from the public, as to why it is necessary to do so. People too have a right to raise objections to the proposed steps.

Exit Polls in Government Offices: We have earlier drawn attention to the need for reducing the interface of members of the public with government offices. Towards

this end, it may be useful to undertake periodical exit polls of all government offices which have large interface with public. During the poll, questions could be asked to elicit information on points such as the following: why had a person come to that office?; How long did it take to have his work attended to?; Did he receive courteous and helpful treatment?; Was any illegal gratification asked for?; How many forms did he have to fill?; Did he think any information asked for was unnecessary or excessive or overlapping?; How many times piece-meal back queries were raised on his application?; and is he a resident of the same place or did he have to come from out-station? This is just an illustrative list of the kind of feedback which will have to be sought to change the ways in which the government functions.

It is recommended that exit polls, on a pilot basis, may be undertaken in the month of December 2001 in fifty selected offices, comprising a representative sample of offices having the largest interface with the public in Mumbai and districts, through reputed agencies well versed in this task. The results should then be analysed and a suitable line of action chalked out and announced in the month of February 2002. On the basis of the experience gained, fifty more offices should be selected for the next round.

Preparation of Report Cards on Government Organisations: We are all aware of the report cards on the performance of our wards in schools and colleges and how these enable us to remain abreast of the progress or otherwise of our wards. The same logic should apply in respect of government offices and organisations. The idea is to look at their performance from the point of view of their customers and stakeholders. A number of well known NGOs in the country have started preparing report cards on the performance of various bodies. One such organisation is the Public Affairs Centre in Bangalore. It is suggested that the state government should commission preparation of such report cards on important organisations which have a great deal of interaction with the people. These will include the civic bodies, electricity board, RTO, rationing offices and so on. It is recommended that ten such organisations may be selected each year for evaluation and preparation of report cards as above.

Payment of Government Dues Through Banks and Post Offices: It is not uncommon to see members of public wasting a lot of time and energy in paying the dues in government/municipal/zilla parishad offices. The procedures for such payment

continue to be out-dated and time-consuming, with receipts prepared in duplicate/triplicate with the use of carbonpaper. “Time and motion study” of all these transactions can indeed be revealing. Often, the person accepting payment at the window has the expression on his face of having to deal with yet another unwanted visitor! There is never a smile or a thank you.

One way to deal with the problem is to decentralise the responsibility for collection of government dues/bills for electricity, water and so on. It should be possible to persuade banks (private, public sector and co-operative) and post offices to take over this work on payment of a suitable commission. Extending common courtesies not being a common trait in most work places in India, this may not necessarily mean getting a better treatment at the payment window at these places, but at least the citizen will be able to choose where he wants to make the payment and save time in the process.

There is no reason why all payments need be insisted upon in cash. Other modes of payment such as demand drafts, pay orders, money orders and even electronic transfers should be accepted. Orders may also be issued for acceptance of payment by cheque and credit cards. In the case of out-station cheques, suitable additional charge may be levied. In case any cheque bounces, a criminal case may be promptly filed against the concerned person. In the interest of convenience of tax payers, the facility of lumpsum payment may also be made available.

Some citizens may prefer to make a payment in advance of their bills, by giving a deposit, to avoid having to deal with the bills from month to month. A system could be introduced wherein a customer would receive reasonable interest, as may be fixed from time to time, on the declining balance of his deposit, with the bills being adjusted against his deposit. This will save time, manpower and hassles for all concerned.

All departments of the government as also local bodies may be asked to introduce arrangements on these lines in the first quarter of 2002 and to make them effective from 1 April 2002.

Sale of Stamp Papers Through Banks and Post Offices: The old system of sale of stamps through authorised stamp vendors, for example, has become problematic leading to harassment and corruption, apart from several other malpractices. There is

no reason why stamp papers cannot be made available through the banks and post offices. This example is given only as an illustration. The idea should be to increase and diversify the outlets for supply of all items dealt with by the government to meet the convenience of the customers.

Attention may be invited in this context to the recommendation of the Karnataka Tax Reforms Commission to the effect that stamp paper and stamps of all kinds, stamp vending and even franking should be rapidly replaced by account-based computerised interactions in all possible areas.<sup>9</sup>

Increasing Validity Period of Licenses and Permits: The state government Departments and local bodies issue licenses, permits and permissions in a number of cases. They have a certain validity period after which they have to be issued afresh or renewed. A case-by-case review may be undertaken to examine the extent to which the period of the licenses, permits and permissions can be lengthened so as to reduce the harassment and inconvenience caused to the citizens.

Statutory powers for issue of sanctions, plans etc. should continue to vest only in government or local bodies which are answerable for their actions through the representatives of the people. The experiment undertaken in Delhi Municipal Corporation to entrust certain powers of the corporation for sanction of building plans to architects was, on review, found to be not particularly successful. Cases in which certain architects had misused their powers were reported to the Council of Architecture but that body failed to take any deterrent action against such architects. The same has been the experience with the bodies of certain other professionals such as doctors and chartered accountants. Till there is a perceptible improvement in the public accountability of these professional bodies, the committee is hesitant to recommend delegation of government powers to them.

Single Window Approach: This concept has often been grossly misused and has, therefore, come in disrepute. But, there are some outstanding examples of well conceived ideas such as the TWINS in Hyderabad. The committee is of the opinion that yet another version of single window approach may be attempted. Under this approach, wherever possible, applications will be accepted in each office at certain

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<sup>9</sup> Finance Department, Government of Karnataka, *1<sup>st</sup> Report of the Tax Reforms Commission*, 12 February 2001, p. 355.

designated time, only after due scrutiny in the presence of the applicant. If the application is found to be incomplete, the applicant will be asked to complete it, provide the missing supporting documents and so on. Once the completed application is received, he will be given a receipt with a specific date on which he could collect the requisite certificate, permit and so on, or the date by which it will be posted. Obviously, this will be feasible only in the case of those who would like to present the application in person. The state government should announce that this scheme will be implemented on a pilot basis in selected offices all over the State from January 2002.

More Purposeful Use of Telephones: The telephones in government offices are invariably engaged or are off the hook. It is not uncommon to see the telephones being used for carrying on private conversation by the staff. One cannot expect to ring up a government office and get a sensible and helpful reply. Anyone from government office returning a telephone call of a member of the public is unheard of! This is hardly conducive to the increasingly fast pace of life. It also does not help those citizens who would like to avoid unnecessary travelling to and from government offices. Providing telephones in the villages, other far flung areas and “on demand” in urban areas will be meaningless if they are not to be put to any worthwhile use.

But, this will call for a “cultural change”. Expenditure on telephones should no longer be looked upon as unproductive and unnecessary expenditure to which economy orders are to be applied year after year. More intensive and productive use of telephones in government offices will avoid over-crowding in these offices and improve the work environment. It will also mean a massive saving of time all over the State. Towards this end, PBX facilities may be provided in all government offices which have large interface with the public. These telephone numbers should be widely advertised. People should be encouraged to seek information on all matters by telephone. Government officers and staff should be asked to diligently return the calls of the members of the public and provide all assistance and help on telephone. Wide publicity should be given to the installation of these facilities in selected offices, to begin with, and the new instructions issued to the staff therein on dealing with the members of the public.

Codification of Discretionary Powers: It is inevitable that in all legislations, considerable discretionary powers are given to the executive. But, it is not inevitable

that these be used in an unguided manner as a source of largesse, whether at the disposal of the officers or the Minister. Wherever possible, guidelines must be framed as to how these powers are to be used. It is equally important that these guidelines are not kept confidential/secret/for restricted circulation. In fact, they must be widely publicised so that members of public know how the powers will be used by any competent authority.

Unfortunately, at present, no guidelines exist in respect of most of the discretionary powers. In the light of the above, the state government should ask all departments/heads of offices/field offices to identify all areas of discretion available to them and to formulate the guidelines for the use of such discretion. This may be completed by March 2002 and in the month of April 2002 all such guidelines should be widely published with copies sent to the media, concerned NGOs and so on. Copies of these guidelines should also be kept in the public concourse of each office for the information of citizens.

Having said the above, it will have to be accepted that there will be cases so unique that no general guidelines can be framed to decide them. In such cases, the state government should issue standing orders that any officer or Minister deciding such a case should pass a “speaking order” which will, in a self-contained manner, explain why and how the discretion was used.

Passing Self-Contained Orders: What is true in the case of use of discretion is equally true in other cases. If the government has to be open, transparent and accountable, it is necessary that the people should know why a particular order was passed in a particular case. But, this will be possible only when a “speaking” or self-contained order is passed by the competent authority in each case. The actual experience is, however, quite the opposite. Often cryptic, one line orders are passed agreeing to the request or rejecting it. At times, palpably wrong, illegal orders are passed without going into the legality of issues involved. In any system of good governance, this must end. The committee recommends that standing orders should be issued by the state government making it obligatory on officers and Ministers passing self-contained orders in each case.

Spelling Out Criteria for Selection of Beneficiaries: It is noticed that in a number of schemes, selection of beneficiaries is made on an *ad hoc* basis. This has, in some

cases, given rise to the quota system for various office-holders. This is nothing but a largesse and is hardly conducive to bringing about transparency in administration. It is therefore imperative that, while sanctioning a scheme, the criteria for selection of each category of beneficiaries under each scheme are spelt out by the government as unambiguously as possible. Wide publicity should be given to the selection criteria, by the officer implementing the scheme, while calling for applications. The selection of beneficiaries should be done strictly according to the prescribed criteria in a transparent manner. Where the number of persons fulfilling the criteria are more than the beneficiaries to be selected, persons should be selected by drawing lots in an open forum. The intention must be to make the process of selection as transparent and accountable as possible.

Redressal of Public Grievances: This is one of the most neglected items of work in government offices. It has been the experience of Lok Ayukta that if the existing grievance machineries were more effective, both at the district and state level, a large amount of the work which comes to the Lok Ayukta would get eliminated. Often it is seen that the complaint gets resolved the moment an application is made to the Lok Ayukta and a report is merely called for and an enquiry is not even commenced. This shows that greater alertness at the grievance redressal levels of government would in itself contribute to speedy redressal of grievances.

The position in respect of grievances of members of the public is still worse. It is a rare occasion, calling for celebration, if a citizen receives a prompt, polite and helpful reply to any of his communications addressed to a government office. Repeated instructions issued by the government for redressal of grievances of people have fallen on deaf year. Keeping this in view, a number of recommendations have been made in this report to make the government more open, accountable and sensitive to the needs of the public. This should go a long way in reducing public grievances.

A reference must be made in this context to the excellent consumer redressal system put in place in Hyderabad Metropolitan Water Supply and Sewerage Board. It includes some interesting features such as display of supply timings, advance intimation of planned disruptions, 24 hour service of helpline on telephone number 1916, water line service, and so on. This is perhaps the first public utility in the country to compensate a consumer for the breach of a customer service assured in its

citizen's charter. This example needs to be emulated by agencies in Maharashtra for early replication.

Citizen's Charter: A number of organisations and departments of the state government have formulated citizen's charters (CCs). It is, however, seen that if the CCs are to serve their purpose, the following pre-requisites are necessary:

- (a) Before a CC is framed, the existing systems and procedures need to be studied fully. The items on which improvements are considered necessary must be shortlisted along with the timeframe for each of the proposed improvements.
- (b) The CC must lay down clear and unambiguous targets which will be met in a given timeframe.
- (c) The CC must be the product of discussions at various levels of the organisation. All employees must have a mental involvement in and commitment to work according to the CC.
- (d) Representatives of consumer organisations as also the NGOs working in the given sector should also be consulted before finalising the CC.
- (e) The CC must be widely published in both Marathi and English for the information of the public. Copies of CC must be available on payment of nominal price to any member of public. Copies of the CC must be made available in the public concourse of each office. The CC may also be put on the web-site for larger and easy dissemination.

The progress made in the implementation of CC and particularly the fulfilment of targets laid down therein must be monitored carefully and results thereof given periodical and wide publicity.

The CC must lay down the compensation which would be payable to a person if the promised delivery or standard of service cannot be met. This alone will establish the seriousness of purpose of any organisation.

Looked at in this light, much remains to be done. Necessary steps may be initiated in this behalf immediately.

### **VIII. Waging War Against Corruption**

Identifying Areas Prone to Corruption: Each department and office of the government should identify, out of its areas of working, those which are prone to corruption and take measures to tighten up procedures, review the delegation of

powers, identify the areas of discretion and prepare guidelines for the use of the same, etc. Wide publicity should be given to the areas of corruption so identified as also the remedial steps taken to deal with them effectively. This will go a long way to create confidence in the public mind that the government means business and is bent on eradication of corruption.

#### Zero Tolerance for Corruption

While a series of steps proposed in this report would go a long way in bringing down corruption in the government perceptibly, it is imperative that the government is seen to be firm and ruthless in dealing with corruption. It must proclaim that it will have zero tolerance for corruption and will not tolerate it in any form.

Confiscation of Property of Those Involved in Corruption: The government should come down heavily on those who are found indulging in corrupt practices. A law should be passed to empower the government to confiscate the property of not only those public servants who have unaccounted wealth but also the property standing in the names of their dependants. This will be fully in keeping with the observations of the Supreme Court in a number of cases.

Annual Property Returns: The rules require that each government servant submits an annual statement of movable and immovable property to the government. Such returns are at present kept in sealed cover and opened only when there is a vigilance enquiry against an officer. However, even when opened, such information is treated as confidential. It is recommended that such returns pertaining to every officer and his dependants may be made public each year so that people will have access to such information freely. This will act as a check against those who are inclined to take recourse to corrupt practices. It is further recommended that a copy of each of these returns may be sent to D.G., Anti Corruption, each year as a matter of routine practice.

Setting up of Special Courts for Anti-Corruption Cases: At present there is a special court in Mumbai for exclusively conducting the ACB cases registered in Mumbai. As on 1 January 2001, 2,372 ACB cases were pending in different courts all over the state. Out of these, 252 were pending for more than 10 years and 644 were pending

for over five years. This is affecting the successful prosecution of cases. It is therefore recommended that exclusive courts may be created in each of the ACB range headquarters and particularly at Nagpur, Amravati, Aurangabad, Pune and Nashik.

Delays in Return of Trap Money: A complainant in ACB case is required to use his own money when the ACB lays the trap. The legal position is such that the ACB cannot advance the money to the complainant. The amount of trap money to be returned to the complainants is in arrears to the extent of over Rs 26 lakh for over three years and the complainants involved are 915. There is no reason why the state government should not be in a position to place at the disposal of the D.G., Anti Corruption, a revolving fund of Rs 25 lakh for the purpose. This is a small price to pay for the energisation of the efforts of putting down corruption in government services.

Refusal to Grant Prosecution Sanction: It is seen that there are a large number of cases in which sanction for prosecution is delayed inordinately. It is suggested that the ACB be authorised to send the cases directly to the concerned administrative departments, instead of routing them through the Home Department. This will reduce the time in processing the cases.

It is also seen that in the cases in which the government refuses the sanction for prosecution, no “speaking orders” are passed and as a result, it is difficult to know the reasons which weighed with the government in refusing the sanction for prosecution. There have been instances where courts have asked the ACB to file a charge sheet even though the state government had refused to give sanction for the prosecution. It is recommended that, in future, whenever a request for sanction for prosecution is rejected by the government, a “speaking order” be passed in each case.

The powers to sanction prosecution may be entrusted to the Lok Ayukta, as it has been separately recommended that the D.G., Anti Corruption, may be placed under the Lok Ayukta. This would, however, require amendments in the IPC, CrPC and the Prevention of Corruption Act.

System of Legal Supervision in ACB cases: The present procedures in this behalf leave a great deal to be desired. It is necessary that the panels of advocates for prosecution of ACB cases are formed in consultation with the Anti Corruption

Bureau. It is also necessary that an officer of the rank of Joint Secretary in L & J D is sent on deputation to the Bureau to co-ordinate all matters pertaining to the speedy prosecution of ACB cases.

Starting of Open Enquiry: At present, government approval is required for starting an open enquiry in certain cases. It is necessary to note that the Supreme Court has struck down certain provisions of the Single Directive issued by the central government making it incumbent on the CBI to obtain prior approval of the government before initiating inquiries against senior officers. The same logic applies here. This is an undue restriction on the powers of the D.G., Anti Corruption. The government orders in this behalf need to be reviewed at the earliest to permit D.G. to undertake open enquiry whenever considered appropriate.

Requirement of Government Approval for Attachment of Property: The entire process of investigation in anti-corruption cases is marked by series of government approvals which have to be obtained. All these are meant to protect the interest of the accused person and lead to frustrating delays. These are archaic rules and are not in keeping with the need to create a climate for a corruption free society. There is no reason why an officer of the rank of D.G. cannot be entrusted with all the responsibility in this behalf. It is therefore proposed that the requirement of government approval for the attachment of property of a person accused in the ACB case should be done away with.

Provision of Sophisticated Equipment and Adequate Secret Service Funds: The government needs to take a much more liberal view in the provision of these facilities to ACB so as to strengthen the anti-corruption efforts. It is proposed that liberal funding may be provided for these requirements. In any case, the amounts required are not expected to be large as compared to the overall allocations to the Bureau.

Grant of One Step Promotion to Constables and Head Constables in ACB: As can be expected there is considerable reluctance on the part of the police personnel to go on deputation to the ACB. To get over this difficulty, the government has taken decision to give one step promotion to officers going on deputation to the Bureau. However, this dispensation has not been made applicable to constables and head constables. The proposal in this behalf is pending decision of the government for over a decade since 16 April 1990. The committee would recommend that this be expedited.

Bifurcation of the Office of D.G., Anti Corruption: The committee has seen newsreports of the proposed move to bifurcate the office of D.G., Anti Corruption. There seems to be no justification for this move. The committee has commented in this report on the large proliferation of the posts in All India Services. This is quite contrary to the avowed objective of downsizing the government. The committee would strongly advise that the move to bifurcate this office may be given up as soon as possible.

Periodical Compilation of Corruption Index for the State: The war against corruption will have to be fought keeping in view the objective of ushering in a corruption free society of which the government bureaucracy forms an important component. It is proposed that the state government should commission compilation of an annual corruption index of the state government machinery through a well known NGO, preferably from outside the state. As is well known, the Transparency International carries out such an exercise for a number of countries for inter-country comparisons. Such an index would become an important indicator of good governance in the state.

#### **IX. Tax Administration, Enforcement And E-Governance**

At the outset, it would be useful to recapitulate the basic objectives which a tax policy should be expected to promote. **First**, any reform of tax system should aim at making it growth-oriented and growth responsive. It will be counter-productive if a taxation system stultifies growth. It is equally important that a tax policy should be able to derive maximum benefit in terms of larger resource flows due to the growth in the economy. **Second**, the reforms must aim at minimising distortions and ensuring equity. The strategy must be to promote horizontal equity. **Third**, raising the rates of taxes is not necessarily the best method of mobilising larger revenues. In many cases, the key to raising more resources may lie in improving administration and enforcement of taxes to minimise avoidance and evasion. **Fourth**, the reforms must not aim at “beggar-my-neighbour” policy leading to negative sum game. **Fifth**, cascading effect of taxes due to unduly high rates of taxation of inputs and capital equipment must be avoided. **Sixth**, as far as possible, assessment of taxes must be account-based and not one enforced through physical checks. **Seventh**, continuous attention must be bestowed on broadening the tax base so as to be able to maximise the revenue with as low a rate of taxation as possible. **Finally**, there must be a stable

tax regime which avoids too frequent and drastic changes in the taxation regime which can adversely affect the investment climate and confidence of the investors, leading to slowing down of growth.

A number of action points inevitably follow from the above objectives. These are brought out below.

Tax Expenditures: Revenue foregone in any manner by way of tax concessions, tax exemptions and tax deferrals must be brought out clearly to the notice of the legislature each year. It is equally necessary that revenue foregone is quantified and placed before the legislature. To ensure that exemptions once given are not continued indefinitely, it is necessary that these are reviewed each year so as to cancel or modify those which do not deserve to be continued. In a sense, these tax expenditures are no different than subsidies and must be targeted properly. It is imperative that all tax expenditures come under the close scrutiny of the legislature and the people at large. For, every rupee of revenue foregone implies either additional burden of tax elsewhere or reduction in some well-deserved expenditure. In practice, it is seen that none of these requirements are followed by the state governments and tax expenditures are hardly ever taken note of.

Amnesty Schemes: There is a tendency to announce amnesty schemes from time to time in the name of reducing arrears. This creates a mindset of not paying taxes on time and instead taking advantage of amnesty schemes announced from time to time. To give such concessions to defaulters is an injustice to honest taxpayers and in fact dissuade them from paying their dues in time. Such schemes reduce the respect for rule of law and do tremendous harm to the system. It is suggested that a policy decision be taken not to announce any amnesty scheme in the future and to give wide publicity to such a decision so as to create a proper climate in favour of timely payment of all taxes and levies.

Stays Granted for Recovery of Dues: It is seen that often stays are granted for recovery of dues by adoption of coercive processes and such stays are continued indefinitely. As can be seen, the party who has applied for the stay and has managed to get it will not be interested in getting it vacated. And, generally, the administrative department concerned takes no interest in getting it vacated. As a result, the interest burden on the arrears becomes unsustainable and pleas are made to give relief therein.

It is recommended that, as a rule, any stay ought to continue for a maximum period of three months and, at the expiry of such period, it should lapse automatically. If necessary, the state government may issue special orders to this effect.

While the above will apply to the stays granted by the government, the problem will still remain in respect of the stays granted by the courts. In such cases too it is seen that stays continue indefinitely making the recovery of arrears that much more difficult. The state government will need to monitor such cases closely so as to get the stays vacated as soon as possible. There is no substitute to greater vigilance on the part of the state government functionaries.

Cash Incentives: Persons giving information of tax evasion, whether working in the department or members of public, need to be rewarded by way of cash incentives out of the additional tax revenue mobilised by the government. This may form 10-15 per cent of the recovery in each case.

Open Up Tax Assessments for Public Scrutiny: It may appear too drastic a solution but looking to the large problem of evasion and avoidance of tax payments and the involvement of government servants themselves in shielding such cases, time has come to take recourse to unconventional methods to tackle the problem. One way to deal with it is to make public the assessment files of all assessees. Such a step will create the requisite psychological impact and create proper atmosphere in favour of compliance with the provisions of law.

Creation of Vigilance Cells in Each Tax Gathering Department: It is necessary that utmost standards of rectitude, honesty and integrity are observed in each of the tax collecting departments. This in turn will help in creating healthy respect for the rule of law. It is therefore recommended that a vigilance cell manned by a senior Indian Police Service officer of sufficient seniority be created to enforce the strictest standards of vigilance in each such department. Thus, for example, while such an officer in the commissionerate of sales tax may be of the rank of a Deputy Inspector General of Police, the officers in other smaller departments may be of the rank of Superintendent of Police.

Review Punishments for Tax Evasion: It is often seen that punishments for evasion or avoidance of tax are nominal and are not worth the effort in pursuing such cases. There is no deterrent effect whatsoever. In cases such as the sales tax or the

passenger tax, the tax is not paid by the dealer out of his own pocket. He merely acts as an agent of the state government in the recovery of the tax. He has therefore no right to withhold payment of the tax. Non-payment of tax must lead to compulsory imprisonment term, as in some other countries. Compliance with the law must become the norm, and its infringement an exception. Tax officers colluding in such cases must be dealt with in an exemplary manner.

Creation of Separate Directorate of Enforcement: It may be advisable to create a separate Directorate of Enforcement in each tax gathering department. Such a directorate should be manned by an officer of acknowledged honesty and integrity from within the department or an officer taken on deputation from outside for a period of three years. Whenever enforcement action is taken and tax evasion is established, wide publicity should be given to the same to create a deterrent effect on the others who may be similarly inclined. Enforcement efforts will be assisted a great deal by building up a proper information system. In fact, building up such a system may obviate the need for raids and similar actions.

Adequate Police Protection to Raiding Officials: It is seen that at times raiding officials of tax departments meet with organised violence and resistance. This leads to demoralisation of the staff of the tax departments. Every effort must be made by the state government to stand firmly behind such staff and to give them police protection during the raids. It will have to be ensured that there is least political interference in their work. They must also be provided with adequate communication facilities to be able to discharge their duties effectively.

Establish Legal Cells for Follow-Up of Court Cases: It is seen that for want of follow-up action on the part of the concerned departments, court cases involving tax matters languish for years together. It is also seen that while top-ranking lawyers are engaged by private parties, often the government advocates are very junior and hardly a match. Thus the dice is essentially loaded against the government. It is necessary that a note of this is taken and ways found to deal with the relevant issues. A legal cell comprising representatives of the concerned department, law department and Advocate General's office may be created to review and pursue all pending cases on a monthly basis. In suitable cases, involving large sums of government revenue, suitably qualified advocates of standing and stature may be appointed to deal with

such cases on behalf of the government. Special powers for this purpose may be given to the law department.

Co-ordinated Actions: Wherever possible, one agency should be made responsible for collection of multiple taxes. This will give an access to such an agency to the records of diverse transactions for cross-checking. For example, sales tax and entry tax should be dealt with by the same officers for checking on tax evasion and tax avoidance.

Interest on Arrears: It is often noticed that there is a tendency not to pay taxes and to permit arrears to accumulate if the interest payable by the defaulter on the outstanding amount does not carry a high enough interest. In such a case, a person prefers to use the amount due in substitution of credit from the bank, effectively using the government as his banker in the process. It is, therefore, recommended that an interest of 2 per cent per month may be charged on the amounts of taxes due for upto one year. Thereafter, the interest may be stepped up to 3 per cent per month.

Non-Payment/ Delayed Payment of Taxes Collected by State Undertakings: Certain taxes are collected by State Public Sector Undertakings (SPSUs) on behalf of the state government. Thus, for example, the state electricity board collects the electricity duty. The state road transport corporation collects the passenger tax. Often, these SPSUs, which are hard pressed for funds, use these resources rather than paying them in a timely manner to the state government. This tendency needs to be put down firmly. It is recommended that interest rates as referred to above may be charged for delayed payments in such cases as well.

Setting Up of a Tax Research Unit: Continuous efforts need to be made to simplify tax administration. Levy of one time tax on two and four wheelers was a step in this direction. However, in doing so, another equally important objective was lost sight of. This pertained to scrapping of old vehicles above a particular age. Such a step is necessary in the interest of checking environmental pollution. Compounding of the passenger and goods tax can also be a step towards simplification of tax administration but, as in J & K, the rate of compounded levy should not be so low as to lead to a heavy revenue loss. It is also necessary to ensure that the rates of taxes in the State are not so high, in comparison with those in the neighbouring States, so as to lead to diversion of trade and commercial activity from the State. It is necessary that

all these matters are examined closely by each department on a continuous basis through a specially set up tax research unit.

Cost of Collection: One of the criteria for judging the efficiency and productivity of tax administration ought to be the cost of collection in relation to the revenue mobilised. There must be a continuous review of all areas of tax administration so as to bring down the cost of collection to the barest minimum. It may be worthwhile to carry out inter-departmental as also inter-circle and inter-district comparisons to segregate more efficient units from those which are lagging behind in this behalf.

Levy of Certain Taxes at State Level and Collection at Local Level: From the point of view of tax administration, it may be advantageous to levy certain taxes at the State level but allow the local bodies to collect the revenue and use it locally. As there will be a close relation between taxes paid and benefits received, the tax compliance may be better. In this category are included taxes such as land revenue and cess on irrigated crops.

E- Governance: Maximum advantage must be derived from the advances in technology in areas of information storage, retrieval and processing. With the continuous increase in the number of dealers and their transactions, there are serious limitations to what can be achieved by reliance only on manual processing of data. One of the biggest advantages of computerisation would be the ability to cross-check transactions between registered dealers and pinpoint inconsistencies. Its most important gain would be that it would increase the ability of the department to cross-check claimed purchases from and sales to other registered dealers. This would eliminate to a large extent evasion through claims of not being the first or the last dealer. Computerisation would also help in monitoring revenue flows and would provide adequate advance warning of likely shortfalls in collections from specific areas as also specific dealers.

Commoditywise tax collection data would help cross-check such data with production figures of such commodities. It should also be possible to cross-check this data with import and export figures.

A routine check on computer would show whether a dealer is deliberately suppressing his turnover in any year as compared to the figures of the previous years.

Scrutiny of returns of dealers ought to be on a random basis with certain caveats such as: all those dealers whose turnover is above a particular limit will be subjected to detailed scrutiny; of the remaining, a percentage random check will be carried out in such a way that every dealer's return will be scrutinised at least once in five years; and if any under-reporting is noticed for the years not subjected to scrutiny, exemplary penalty will be imposed on the dealer, apart from subjecting him to detailed scrutiny for the three succeeding years.

Improving the database and having an efficient and quick way of retrieving data is a prerequisite for improved tax administration. It is equally important that the database should be carefully collated with supplementary information from other related sources. Juxtapositioning such information would help identify areas of tax evasion as also tax avoidance. It is unfortunate that in spite of these overwhelming advantages of E- governance in tax administration, it has received such scant attention so far.

It is suggested that the state government should commission a special study to identify the areas of E-governance in each tax gathering department, their inter-se prioritisation, and the minimum time-limit in which it can be implemented. Lack of budgetary resources should not be permitted to come in the way of these long overdue reforms.

## **X. Summing Up**

Good Governance Quarterly Meetings: In keeping with the practice followed in some of the private sector companies for promoting quality consciousness among their employees, it may be laid down that, during the first month of each quarter (starting with January 2002), a meeting of all officers and staff of each office will be held to review the steps taken by the office for good governance. A middle level officer may be made responsible for convening these meetings to promote a sense of involvement of all incumbents working in that office in the concept of good governance. These meetings may be attended by all senior officers, including the head of the office and all officers and other employees.

Setting up of a Standing Committee on Good Governance: The above is only an illustrative list of recommendations on good governance. This shows how wide-ranging is the scope of the subject. The concept of good governance will have to be

evolved, modified and refined to suit the requirements of the society from time to time. It is therefore proposed that there should be a standing committee on the subject which will continuously interact with Mantralaya, the field offices and all stakeholders in society to make suitable recommendations on the subject on a continuous basis.

Setting up a Centre for Good Governance: This process can be strengthened by setting up a centre for good governance in YASHADA in Pune. This centre should also be given the responsibility to monitor the follow-up actions on the recommendations contained in this report. The centre can also become the vehicle for channelling bilateral and multilateral assistance for promotion of good governance in the state.

Establish a Cabinet Sub-Committee on Good Governance: It is important that a clear message is conveyed to all concerned of the government's firm commitment to usher in good governance in the shortest possible time. A new urgency needs to be brought to bear on the subject. For this purpose, a cabinet sub-committee on good governance may be appointed to review the progress of implementation of these recommendations and give a lead in the matter. The committee should invariably meet at least once every three months.

Publication of This Report: It is widely recognised that democracy by itself cannot satisfy the aspirations of the people unless it also ushers in good governance. Keeping in view the increasing voter awareness and consciousness as is evident in recent years in each election held in the country, it is necessary to appreciate that good governance can also be good politics. It is not, therefore, surprising that good governance, as a concept, has caught the imagination of the people in a number of Western countries. Multilateral and bilateral donors have resolved to do everything in their powers to encourage such efforts through their lending programmes. For all these reasons, this is the opportune time to break new ground for laying the foundations for good governance in Maharashtra. Any efforts in this direction will undoubtedly receive widespread public support. These efforts will be further facilitated if this report is published at a very early date for information and soliciting the reactions of the people, even without waiting for its translation in Marathi.

25 July 2001

Dr. Madhav Godbole  
Former Home Secretary  
Government of India.