

A Series of Deliberations on
Laws, Liberty, and Livelihood*

Towards a Bottom up, Woman Friendly Agenda of Economic Reforms

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The half hearted agenda of economic reforms initiated in the early 1990s in response to the foreign exchange crisis has proved to be one of the most contentious issues of our time. The pro-reform lobby is convinced that the process of liberalising the economy initiated in 1991 and continued in fits and starts since then, needs to be accelerated, if India is to move out of its poverty trap. On the other hand, many of those who have traditionally projected themselves as representing the interests of the poor and disadvantaged sections have dubbed it a sell out to multi-nationals and other foreign interests. They brand it as promoting neo-colonialism

that will lead to weakening of the economy and a further marginalisation of the poor.

Some of the opinion polls conducted in recent years claim that the Indian electorate does not consider economic reforms a high-priority issue. Instead, removal of poverty, corruption and unemployment remain central to the voter's agenda. A country wide survey carried out by CSDS in 1996 found that more than 80 per cent of our people had not even heard of the economic reforms, let alone experienced any difference in their incomes or economic prospects due to them. Of the 19 per cent who had heard of reforms, only 10 per cent said

that they "approved" of them. This amounts to less than two per cent of the over all population. Even today, the situation has not changed much and the constituency for reforms remains severely limited. The ordinary citizen uses the following yardsticks for determining whether reforms are working in their favour or not:

- that they are not required to pay bribes to government functionaries;
- they are not needlessly harassed and obstructed in their economic pursuits;
- they have security of life and property and access to a wide range of economic opportunities;
- there are efficient dispute

Invitation to Our Readers

***Law, Liberty and Livelihood** is the theme of a series of deliberations being jointly organised by the **Centre for the Study of Developing Societies** and **Manushi**, under the CSDS Programme on Advance Social and Political Theory. Madhu Kishwar has initiated the 'Law Liberty Livelihood' project as the Parekh Fellow at CSDS. The first in the series is slated for April 27-28, 2001. Similar two days sessions will be held over the following four months.

The purpose of this series is to bring the legitimate concerns and demands of various sectors of our economy on a common platform, especially those of the hitherto neglected sections of our society, in order to highlight the common threads running through the economic lives of various segments of our society; examine the legal and extra legal instrumentalities through which the economic initiative, skills and incomes of our people are being depressed, the hazards people face in earning perfectly legitimate livelihoods, the web of crime and illegality they are sucked into as they try to set up any enterprise — big or small. At the end of it all we hope to prepare a bottom-up, gender sensitive agenda of economic reforms and a people's charter of economic rights, which will free the entrepreneurial skills of our people and provide creative channels for them.

Those interested in providing additional inputs or participating as delegates are invited to contact: Madhu Kishwar, c/o CSDS, 29 Rajpur Road, Delhi or MANUSHI

resolution mechanisms, should they face situations where their legitimate rights were being violated.

Clearly none of this happened so far. Loosening of bureaucratic controls may have brought some relief to some segments of the industry and easy access to a wide variety of consumer goods for people at large. But economic insecurity seems to have increased for most people and the nuisance value of the government has not been brought under check.

The apprehensions and lack of enthusiasm for the reforms among the general public is mainly due to the fact that the entire discourse on economic reforms has been stunted by a single minded focus on the entry of multinational corporations, the concerns of the Indian corporate sector, and the fate of government-run public enterprises, as they prepare to deal with a market open to competition. These are valid concerns. But we cannot afford to overlook the fact that Indian and foreign corporations together with the PSUs provide employment to no more than three per cent of our population. Another three per cent are employed in various government agencies. The vast majority of our people are still either dependent on agriculture and allied occupations, or work in the unorganised informal sector of industry, as self employed artisans, or service providers. Thus, the vast majority of our people are self employed, as against about 10 per cent in Europe and America. Their economic well-being, unlike that of the tiny salaried class, depends on the economic health of small family enterprises with few or no employees. Yet, the concerns of this overwhelming majority (nearly 94 per cent) have found very little place in the minds of those pushing for reforms.

The concerns regarding economic reforms are being articulated, most

The vast majority of our people are still either dependent on agriculture and allied occupations, or work in the unorganised sector of industry, are self employed as artisans, or service providers.

often in distorted and mistaken forms, mainly by anti-reform lobbies, most of whom have ended up as defenders of statist controls, tighter regulations and increasing government monopoly in key sectors of our economy. The fears and phobias unleashed by the confused and half hearted preliminary steps for dismantling bureaucratic controls over the Indian economy has made them see the license-permit-raid *raj* as an ally and a necessary instrument, for keeping the greed of the rich and powerful under check.

Despite their day to day experience with the failure of our present economy to provide dignified livelihoods to the people, the anti-reform lobby insists that moving to a more market oriented economy would only enrich the already wealthy at the cost of the poor, leading to greater impoverishment of the majority. The fact is that the poor need the economic freedom provided by functioning markets even more than the rich if they are to move out of the poverty trap. Attempts to restrict or prohibit their access to the market often leads to loss of political freedom as well. There is all pervasive evidence that the poor are among the worst victims of arbitrary statist controls over our

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economy and are squeezed even more than the rich under our still flourishing license-permit-raid *raj*.

Our archaic colonial type laws allow those occupying government offices, the power and legal right to obstruct, and fleece citizens, for virtually every economic activity including begging! For the poor, bureaucratic controls do not merely stop at extortion but also facilitate subjecting them to routine violence, humiliation and arbitrary acts that seriously jeopardise their lives and livelihoods. Earning a simple livelihood has become a high risk venture for most people in India. Their survival and dignity are being assaulted daily by the agents of the all pervasive *mai-baap* sarkar, forcing

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them to seek protection through *goondas* and *dadas* who act as touts between them and the bureaucracy. This has kept the incomes of our people artificially depressed, destroyed their self-confidence and eroded their self-esteem.

In addition, the Indian state has prevented a large proportion of our people from accessing the numerous new economic opportunities available to people elsewhere by denying them basic education and health care facilities. Barring a few among elite families, the health and educational profile of our people is among the poorest in the world. Despite all the hype around devolution of power to panchayats, the bureaucracy continues to exercise a stranglehold over the civic affairs of communities, with the result that our educational and health services are also ridden

with gross corruption, wastage and mismanagement.

The failure of our legal system to protect the legitimate interests of our people in earning their livelihood and its inability to act as an effective dispute settlement mechanism has promoted chaos, lawlessness and incompetence. All this has debilitated ordinary people trying to earn a livelihood. This can change only if the government can be persuaded to step back from its obstructive role and develop the more sensitive, minimal but fair regulations and an efficient system for adjudication of disputes.

Without economic freedom whatever political freedom we have becomes an empty ritual. That is a major reason why, despite such an actively involved electorate, our political democracy remains deeply flawed and has become a hostage to anti-social elements. Experience worldwide shows that economies are more likely to prosper when they are active players in world trade. Regimes that have used Draconian state controls to insulate their economies from the outside world have not only wrecked the financial health of those societies but also criminalised their politics and denied their people of many basic freedoms. The mindset of those justifying state controls resembles that of a battered wife who despite being the primary earner of the family dares not walk out on her abusive drunkard husband. Long years of beatings and tyranny have so destroyed her sense of self-worth that she cannot think of facing the world on her own without her husband's 'protection' even though this 'protector' is the

one most likely to reduce her to a heap of broken bones.

Urge for Economic Freedom

Those opposed to reforms tend to put the entire backlog of India's problems at the doorstep of our hesitant, small doses of economic reforms, and make it seem as if the entire economic reform agenda consists of those measures advocated by the World Bank, the IMF and the multinationals. Ironically, the anti-reform lobby includes many who swear by Mahatma Gandhi but forget that he was one of the most steadfast opponents of state controls over the

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economic lives of our people, as well as over other institutions of civil society. His economic philosophy was not derived from any esoteric western utopian worldview but based on India's historical legacy of self governance.

One of the special features of Indian civilisation has been that until the coming of the British, the rulers at the top were not usually in a position, nor did they expect to assume the right to impose their rules and laws over the intimate economic, social and cultural lives of various local communities. Each village, each town had its own institutions of self-regulation. In ordinary times, the rulers usually had only a right to traditional forms and rates of taxation. If they were on hand, they were expected to adjudicate disputes according to the customs and norms established by the concerned communities. It is with the establishment of the colonial state that this system of self-governance was wrecked and the rulers arrogated to themselves more pervasive powers over the economic, political and social affairs of our people.

Even after Independence, political stalwarts like Rajagopalachari, Minoo Masani, Nijalingappa and many others put up a determined fight against the bureaucratic controls imposed in the name of ensuring equity. From the 1970s onwards, strong rural movements, especially in Punjab, Maharashtra, Gujarat and Andhra, saw lakhs of farmers participate in long drawn out struggles to demand dismantling of the regime of restrictions imposed on them by the state and to allow the

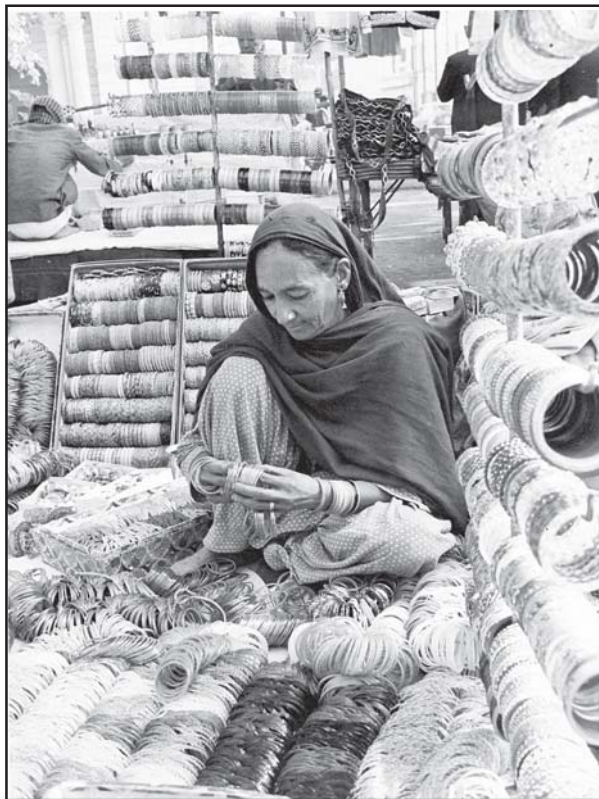
agriculturists free access to the domestic and international markets.

The numerous bans on the economic activity of the forest dependent communities and the accompanying *sarkari* tyranny has been a major reason for the growth of violent resistance movements, such as those led by Naxalite groups. The industrialists may not have come out as openly as the farmers and tribals against the curbs on their enterprise since they gained some advantages by compliance, but they resisted and sabotaged the system through covert means — bribes, evasion of taxes, and working through the parallel “black” economy which grew much faster than the “official” one.

In other words, the urge for economic freedom has primarily come from within. The World Bank and the IMF get to acquire undue influence only if and when India appears in economic tatters with a begging bowl before these international bodies. The poverty of our people is thus not the product of economic reforms but underscores the need for domestically oriented reforms that can unfetter the entrepreneurial skills of ordinary people.

Pitched Against the Other

Apart from depressing the incomes and entrepreneurial skills of our people, the economic policies followed by the government in the decades after Independence also involved pitching one sector of the economy against another, as well as pitching different groups dependent



Among the few women who dare

on a particular sector against each other. Food producers are denied remunerative prices in the name of poor consumers, agriculturalists are put in an adversarial relationship with industries that depend on agro-produce. Farmers are projected as the primary enemies of farm labourers, just as industrial workers have been trained to see owners of industries as their sole opponent, with the *sarkar* pretending to be the refuge and protector of all. Instead of mediating among the various economic interests and thereby facilitating the growth of productivity for all, our governments have encouraged a constant zero sum battle among different sectors of the economy to the detriment of each so that the state could project itself as the sole power source that is in a position to resolve these disputes. In the process it acquired dominance over the whole society which it uses

for demanding humiliating forms of deference and vast amounts of bribes.

Societies make economic progress only when there is a degree of complementarity of interests between agriculture and industry, between wage earners and employers, between small scale and large scale industry, between consumers and producers — rather than where each of these sectors is locked in a permanently adversarial relationship with the others. At the same time, there need to be transparent and accountable institutions capable of providing effective and impartial conflict resolution, as and when the rights of one sector or producer are

trampled upon or suppressed by the other. Our country lacks such functioning mechanisms so that conflicts keep simmering and frequently erupt in ugly and violent forms. Many otherwise honest people feel so frustrated at the failure of our legal system that they are forced to resort to outright crime and violence as a way of concluding even minor economic disputes.

Women’s Special Stake

Since women as a group inevitably get marginalised from the economy and polity of any society where violence, crime and extortion predominate, they have a special stake in widening the agenda of economic reforms. Very few women in India dare set up their own businesses (big or small) because that inevitably exposes them to criminal elements in and around the government offices and in public spaces. Many prefer home

based work, while depending on their men to deal with the outside world. This keeps them ghettoed to the lowest rungs of the unorganised labour force with little control over their incomes. In addition, the systematic assaults and erosion of women's rights to property through the colonial and post-colonial period have thwarted their ability to engage in business and entrepreneurial activity. Since most women do not own any solid assets independently, they find it difficult to access even small amounts of credit- which is often a necessary requirement for engaging in business.

Even if they own property, the all pervasive corruption and violence forces women to depend on men for its management, especially in dealings with government offices. This strengthens women's dependence on males who then use feminine insecurity as an excuse to impose crippling restrictions on women's mobility and autonomy. These factors have significantly contributed in strengthening the culture of son preference in modern India. Therefore, decriminalisation of our economy is a necessary pre-condition for freer, large scale and vibrant participation of women in the economic and political life of our country as well as to combat the devaluation of women and girls. Decriminalization requires not only debureaucratization but also building effective institutions for ensuring accountability, effecting conflict resolution and protecting the rights of vulnerable groups.

From the Bottom Up

Since the reform process is being thwarted in the name of the poor and vulnerable sections of our population, we need to make determined and

visible efforts to include the livelihood concerns of the average citizens, especially women – in their role as farmers, artisans, weavers, forest gatherers, small shopkeepers, agricultural and other wage labourers, various service providers and self employed groups like street vendors, fisher folk, transporters, rickshaw pullers, and waste recyclers, if we want the economic reform process to make real headway.

A meaningful agenda of economic reforms will necessarily result in:

- Downsizing the over-bloated, over centralised bureaucracy and replacing them with locally appointed service providers, teachers, nurses, and doctors who are accountable to the local public;
- Drastic reduction in corruption and extortion by bringing about, deregulation, transparency and local accountability and control over financing;
- Allowing full play for the industrial and entrepreneurial talents of our people;
- Making earning a livelihood, including generation of wealth, an honourable and respectable activity;
- Strengthening our democracy by giving people greater control over their lives and livelihoods.

Our conference will aim at the following:

- Bring the legitimate concerns and demands of various sectors of our economy on a common platform, especially those of the hitherto neglected sections of our society, in order to highlight the common threads running through the economic lives of various segments of our society.
- Present specific case studies to

examine the legal and extra legal instrumentalities through which the economic initiative, skills and incomes of our people are being depressed, the hazards people face in earning perfectly legitimate livelihoods, the web of crime and illegality they are sucked into as they try to set up any enterprise — big or small — and the failure of the rulers to deliver the basic education, health, sanitation and infrastructural facilities that societies expect from their governments.

- Attempt to build a consensus of concerns between different mutually dependent segments of the economy. In the process we will also examine some of the short term conflicts of interests between them and figure out ways in which they can be resolved in the long term interests of all.
- Prepare a bottom-up, gender sensitive agenda of economic reforms and a people's charter of economic rights, which will free the entrepreneurial skills of our people and provide creative channels for them. This charter will be prepared by each concerned group giving concrete suggestions for the urgently required reforms in societal incentives as well as in the laws and policies governing their respective economic activity while taking into account the legitimate interests of other groups dependent on that sector. The solutions we recommend will draw upon the demands made by various groups over the years, through long drawn out struggles for economic freedom.
- Explore ongoing means of practically promoting and implementing this agenda. □

Themes to be Covered*

Since we are attempting an in-depth discussion on a diverse range of issues and sectors of our economy, we are splitting our deliberations into a series of two-day sessions

□PART I:

Session I (April 27, 2001)

Interface between Agriculture and Industries Dependent on Agro Products:

a) Sugar Policy: The currently embattled relationship between the sugar cane growers, the sugar industry and the consumer will be reviewed to assess how far the regime of controls that have led to high prices of sugar, frequent resort to sugar imports, economic distress to farmers, and distortions in the sugar manufacturing industry — have been or need to be dismantled.

b) Cotton and Textile Producers: This session will bring together the four inter-related sectors — cotton farmers, handloom and powerloom weavers as well as the textile mills — to figure out why each one of these are crisis ridden. How have government policies so far promoted adversarial relationship between them and how has the second generation of reforms affected each? What policy changes will help promote complementarity of interests between them?

Session II (April 28, 2001)

Urban Self Employed in the Informal Sector: We will hear first hand accounts from street vendors and garbage recyclers of how the actual workings of our municipal laws and police powers end up actually wrecking livelihoods and depressing incomes of the self employed in the urban informal sector. We will also focus on the changes urgently required in our municipal and police laws to save these groups from daily assaults on their dignity, safety and incomes.

□PART II

Session III (Full Day) (May 24, 25, 2001)

Food Security Policy, the Essential Commodities Act and Farm Subsidies:

This session will bring together wheat and paddy farmers along with rice millers, FCI officials, policy makers and agricultural economists to examine why is it that while mountains of foodgrains lie rotting in FCI godowns, there are millions who remain hungry and malnourished? Eighty per cent of the poor and malnourished are those dependent on farming. How are our farmers going to meet the challenges of a liberalised economy, now that grain prices are declining in the world market and our farmers have lost the competitive edge

they had till recently. If closing the economy has not led to prosperity among our farmers, what realistic choices do we have to build world class agriculture in India?

Session IV (May 24, 2001)

Debureaucratising Cooperatives, Corporations and Microfinance:

So far the government seems to be moving towards reform and privatisation only of those corporations which are found attractive by Indian and foreign corporate houses. However, the corporations and institutions created to mediate between the market and various artisanal groups, fishing communities, forest gatherers, have continued to suffer from bureaucratic stranglehold, corruption, inefficiency and depressed incomes for the groups sought to be helped and “protected”. We will review all those laws that need to be done away with or improved on to make these corporations and cooperatives run as proper businesses with the initiative of actual producers.

Session V (May 25, 2001)

Land, Water and Forest Policy: The notion of eminent domain introduced by our erstwhile colonial rulers converted land, water and forest resources into a state monopoly while converting the status of people to mere tenants of the state who can be removed and expropriated at will.

By assuming the right to “protect” and “maintain” forest and water resources, the state has not only limited people’s access to basic survival needs, but also their involvement in managing these resources — leading to an unprecedented environmental threat and immiseration of village communities.

While the industrial lobbies are pressing for changes in land related laws, the anti reform lobby is opposing these changes, fearing that this will lead to massive takeover of farmers’ land by MNCs and Indian corporates.

Under consideration will be the impact of government monopoly over land, on farmers as well as the urban housing market in India: the fall outs of forcible acquisitions of land at far below market prices; how it has helped emergence of land and builder mafias and made housing unaffordable for the poor, forced them into illegal squatting despite paying hefty amounts for miserable shelters. What have been the outcomes of liberalising the land policy in states like Maharashtra and Andhra?

We will hear accounts of communities which have tried

**Subject to minor changes*

to reclaim these rights with a measure of success and taken charge of managing these resources through collective action. The purpose is to figure out how to protect the legitimate interests of our farmers while working out an appropriate policy in this era of reforms.

□PART III (Last week of June)

Session VI (Half Day)

The Small Shopkeepers and Traders: Trade is the life-blood of any economy and India is the home to some of the most versatile trading communities anywhere in the world. Their caste and kinship ties helped them survive the many hostile conditions created against them since colonial times. They have sophisticated institutional mechanisms for carrying out business across long distances, both within the country and abroad. Often these institutional arrangements altogether by-pass the regulatory mechanisms of the state. Within the communities, there are well established and observed norms of business ethics. However, the very same people think nothing of tax evasion, operating largely through the “black economy” which seems far more vigorous than the official economy. What is it that pushes even the best and most honourable among our traders to evade economic laws and bribe their way through the Inspector *Raj*? What changes do we require in taxation, excise and laws such as Essential Commodities Act which make traders vulnerable to blackmail and distorts business ethics?

Session VII (Half Day)

The Economic Decimation of India’s Traditional Technologists and Artisans: Today India is considered a poor agricultural country. But until about 200 years back, our country was regarded as the world’s leading manufacturing society. Europeans took hazardous voyages to India, attracted by its wealth and exquisite luxury goods. This technological legacy was the inheritance of several specialised *jatis* which identify themselves under the broad category of ‘Vishwakarma’. Tragically enough, the *jatis* who elevated our country’s technological, craft and industrial skills to such astonishing levels over centuries have today been declared as “Backward” and “Most Backward Castes.” And yet, even today 40 per cent of our foreign exchange earnings come from exporting the handmade products of these artisans. We will examine the legal enactments and state policies, which snatched away many of the rights of our *lohars*, *sthapatis*, *prajapatis* and other traditional technologists, leading to devaluation of their traditional skills, squeezed their incomes and obstructed them from upgrading their skills. How do we redress their wrongs and fit in their concerns into the reforms agenda?

Session VIII (Half Day)

Small Town, Small Scale and Home Based Industry: In many parts of the country, especially in the North, people are abandoning small towns and flooding metropolitan centres. Despite the many inherent advantages due to low costs and long working hours demonstrated by the small-scale industry and service providers in India, this sector has witnessed a stunted growth, especially in small towns of North India. Some segments of this sector are facing a virtual collapse in the post-reform period. How far has the rhetoric of de-licensing and dismantling the License-Permit-Inspector-Raid *Raj* at all touched the lives of small town entrepreneurs? Why is it that most small-scale industrialists do not see any stake in the reform process?

□PART IV

Session IX (Half Day)

The Transport Sector: While the state has failed to expand the government owned railway network and public transport to meet the growing requirements for passenger and goods traffic, it has also curbed private initiative in this area through legal and illegal means. In this session, we will focus on select case studies of certain specific examples of thwarted entrepreneurship in the transport sector and hear first hand accounts of the risks and hazards faced by truckers, and unlicensed makers of rural transport vehicles to outline the legal and policy changes required for rational working of this sector. In addition, we will also review the experience of Konkan railways to find out why despite its visible success, more such ventures have not yet blossomed in India.

Session X

Restructuring the Indian Corporate Sector: Contrary to expectations, it is not the western multinationals which are posing a threat to our corporate sector but cheap imports from Asian countries like China, Korea and Malaysia. Is banning these imports a realistic option? Has internal liberalisation kept pace with the opening up of the Indian markets to external competition? How do we reconcile the interests of Indian consumers and industrial workers with that of the Indian corporate sector?

Session XI

The Telecom Sector: At a time when the entire world is celebrating the achievements of the Indian scientists, telecom and IT professionals and governments of developed economies are rolling out red carpets for them, our government has so far prevented the spread of Information Technology to the vast majority of our own people, especially those who live in rural areas. This has inhibited access to Information Technology within the country. In this session there will be presentations by

pioneering professionals who have made far reaching innovations in making easily affordable, decentralised telecom systems ideally suited for rural areas and yet are being prevented from making these accessible to our own people, even though they have the potential to trigger off an entrepreneurial bonanza in the country.

□PART V (Last Week of August)

Session XII

Liquor and State Policy (Half Day)

The Indian state which is bound by the Directive Principles of our Constitution to work towards prohibition, feels no embarrassment in maintaining a virtual monopoly over the sale and distribution of molasses — a raw material that goes into making far more harmful kinds of liquor than brewed locally from grains or fruits. The government also has a virtual monopoly over liquor trade. The dependence of most state governments on liquor revenue for filling its exchequer has led to the state machinery playing an active role in promoting liquor addiction, especially among the poor. This monopoly and control over liquor trade has led to the emergence of criminal mafias in our political system. Why have we liberalised imports of foreign liquors without first liberalising the manufacture of liquor internally by allowing people who have a tradition of brewing for self consumption to do so without being treated as legal offenders? Should the state be allowed to run liquor shops and have monopoly over this trade by auctioning liquor licenses as a way of distributing political patronage and generating revenues for the state?

Session XIII

Strengthening the Social Sector and Delivery of Services:

Central to any programme of reforms geared to the interests of our people is a major improvement in the basic amenities and essential services, many of which must continue to be delivered by the government. Despite liberalisation, and market-oriented reforms, in a poor country like India some services must continue to be delivered by the government. Investments in urban and rural health care, education, roads, sanitation, irrigation, water supply, research, and creating other forms of development related infrastructure need to be enhanced manifold. These cannot be left only to market forces or private initiative.

How do we decentralise delivery and involve users so as to eliminate leakages and allow people to determine their priorities? The current provisions in the Panchayati Raj Act have not proved adequate for this purpose. What would be the essential ingredients of a genuinely decentralised, accountable and transparent system? □