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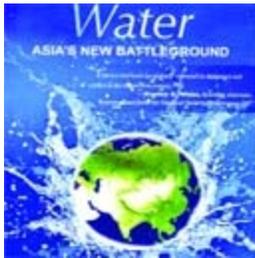
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BOOK REVIEW

PIONEER 16.10.11 BOOK REVIEW

Water wars in Asia



Water: Asia's New Battleground

Author: Brahma Chellaney

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If Brahma Chellaney's book is to be believed, our future battles will take place on the issue of water. And, nowhere else does this prospect look more real — and frightening — than in Asia, says *Utpal Kumar*

Battles in the past were fought over land. Today, they are being waged for energy. And, those in future will take place on the issue of water. Nowhere else does this prospect look more real — and frightening — than in Asia.

Although home to more than half the human population, the Asian landmass has less fresh water than any continent other than Antarctica, with its per capita freshwater availability being less than half the global average. Incidentally, Asia uses almost twice as much water per capita as Latin America, which has the highest potential water availability in the world.

In *Water: Asia's New Battleground*, Brahma Chellaney says that the rise of the middle class, along with relentless urbanisation and global warming, is putting huge pressure on Asia's water supply, already under strain due to the rice-based agrarian system. Though the entire continent is likely to be engulfed in the water war, it's in South Asia that the real threat exists — and the blame for which primarily lies with China's unquenchable thirst for water.

What explains the Chinese obsession with water? One obvious reason being the fact that China, currently “the workshop for the world”, is becoming drier by the year. Severe droughts occurred in 2000, 2007 and 2009. According to a report, about 24,000 villages in north and west China were abandoned over the past 50 years because of desertification. Worse, the country's freshwater reserves declined 13 per cent between 2000 and 2009.

Though water politics is a universal phenomenon, China's rice economy and the particular nature of its rivers have made the control of water central to governance for thousands of years. German-American Sinologist Karl Wittfogel argues in his book, *Oriental Despotism*, that the cultivation of rice needs a lot of water consistently delivered in fixed amount, which in turn requires the construction of a large number of dams for water retention and a complex web of channels for water delivery. All these necessitate the need of a huge, centralised bureaucracy for the construction and management of water bodies. And when this Chinese trait combined with Mao's cataclysmic belief — that

“man must conquer nature” — Beijing turned into a nation notorious for its insatiable water-guzzling appetite.

Having contaminated its rivers through nihilistic ideology and unbridled industrialisation, China, in its bid to meet its ever-escalating water needs, now threatens the ecological viability of river systems tied to South and South-East Asia. No wonder, the idea of a Great South-North Water Transfer Project, diverting Tibetan waters to the desiccated north, has the backing of President Hu Jintao, a hydrologist himself. The first phase of this project calls for building 300 km of tunnels and channels to draw waters from the Jinsha, Yalong and Dadu rivers, on the eastern rim of the Tibetan plateau. In the second phase, the Brahmaputra waters may be re-routed northward, in what will be as good as the declaration of water war on India and Bangladesh.

India's position is even more precarious. It has to support more than one-sixth of the global population with less than 1/25th of the world's water. Against a current water supply of 740 billion cubic metres, demand in the country, according to an international study, will grow to about 1.5 trillion cubic metres by 2030. What's, however, hurting India the most is its *chalta hai* attitude regarding the impending crisis. The country, which gifted away four-fifth of the waters of Chenab, Jhelum and the main Indus stream to Pakistan under the 1960 Indus Water Treaty, despite its portion of the basin reeling under serious water woes, has not been able to fully utilise the waters of Sutlej, Beas and Ravi reserved exclusively for its use. As a result, Pakistan inadvertently gets about 11.1 billion cubic metres of water every year, which is six times Mexico's share under its water treaty with the United States!

Also, our dietary habits are making things difficult for us. Primarily being a rice-producing nation, like China, India spends 1,550-2,000 litres of water to grow a kg of rice. Incidentally, among urban Indians, the daily rice intake has slowly been going down, but they now are vying for meat and dairy products. This is a worst-case scenario: To

produce just a kg of meat, between 30,000 and 70,000 litres of water are needed. Given that more than half of all agricultural water withdrawals in Asia are for rice cultivation, slashing water use in irrigated paddy fields holds one key to easing water shortages. But rice shouldn't be exchanged with meat products.

In such a grim scenario, when China — which has the distinction of being the source of cross-border rivers to the largest number of countries, including India — attempts to divert the Tibetan waters to the north, it is bound to agitate its neighbours, particularly those in South and South-East Asia.

So, what's the way out? While lamenting India's folly in recognising Chinese sovereignty — as opposed to *de facto* control — over Tibet, which, according to the author, has damaged the country's ability to mount legal objections to China's water projects, Chellaney argues that the way to manage water disputes in Asia is to build co-operative basin institutions involving all riparian neighbours. "Such institutional arrangements must be based on transparency, information sharing, pollution control, and a pledge not to redirect the natural flow of transboundary rivers," he says.

Chellaney, however, understands that it's easier said than done. "Whereas Europe has built institutions to underpin peace, Asia has yet to begin such a process in earnest," he says. What makes the matter worse is the utter disregard of China for transparency and a water-sharing arrangement. Beijing, after all, is one of the three countries that voted against the 1997 UN convention laying down rules on the shared resources of international watercourses.

CORRUPTION

Towards a powerful Lokpal But it shouldn't affect the CBI

Sankar Sen

THE CBI Director in a presentation before the Standing Committee of Parliament, now deliberating over the Lokpal Bill, has strongly argued against the vivisection of the CBI and merger of its anti-corruption wing with the Lokpal. He and his senior officers strongly feel that this will seriously cripple the core functioning of the CBI and reduce it to irrelevance. An organisation built over the last 60 years should not be subsumed under the Lokpal.

CBI officers concede that in some sensitive political cases there is, of course, interference from the government, but in respect of an overwhelming majority of cases the CBI functions unfettered and uninfluenced by extraneous considerations. For this reason there is an ever-increasing demand for CBI investigation from all over the country in respect of important cases.

Under the Jana Lokpal Bill, drafted by Anna Hazare and his team, the Lokpal will have its own investigation wing for going into acts of corruption by public servants as well as private entities which are parties to the Act. It will also enquire into public grievances and investigate complaints by whistleblowers. For this, the Lokpal needs a powerful investigation wing manned by tested and tried professionals.

According to Team Anna's view, the lower bureaucracy should also come under the Lokpal because the common man is more affected by corruption at the lower level. Only Group-A officers are covered by the Lokpal Bill drafted by the government. Anna's team wants the anti-

corruption wing of the CBI to be merged with the Lokpal. The CBI's point of view is that to hive off the anti-corruption wing of the CBI will cripple it grievously and make it effete and irrelevant. Though the CBI at present takes up investigation of various other types of cases like economic offences, violent crime, organised crime, crime having inter-state and international ramifications, the anti-corruption probe continues to be the core function of the CBI.

The CBI's paper argues that its Director should be made an ex-officio Lokpal member entrusted with control and investigations undertaken by the Lokpal. The Lokpal will exercise general supervision and control in anti-corruption cases through the CBI Director. In respect of corruption cases, after investigation the CBI will file a final report in competent courts. Investigation and prosecution will remain in the hands of the CBI. Thus, there will be no vivisection of the CBI and no need for a separate investigation wing under the Lokpal.

Creation of two investigating wings — one under the CBI and another under the Lokpal with the same mandate, is likely to lead to the overlapping of work, conflict of jurisdictions, and the demand for more resources. Functional autonomy of the CBI as well as its credibility has been eroded over the years, and effective steps are necessary to restore its full functional autonomy.

However, the hard fact that cannot be wished away is that no powerful and effective anti-corruption body can function without an investigation wing. Otherwise, it will be a toothless tiger. The proposal to induct the CBI Director after a very careful selection as ex-officio Lokpal is likely to encounter opposition from the legal and judicial fraternity and other members of the institution of Lokpal some of whom are likely to be judges and Chief Justices of the Supreme Court and high courts.

So, instead of toying with the idea of bringing the anti-corruption wing of the CBI under the Lokpal, a better and more pragmatic alternative will be to entrust the CBI with the investigation of corruption cases

referred to it by the Lokpal. This measure will ensure avoidance of the vivisection of the CBI and consequent weakening of its core competence, and, at the same time insulate it from extraneous pressures, at least in respect of anti-corruption cases referred to it by the Lokpal.

The Lokpal will closely monitor the cases investigated by the CBI. This will enable the Lokpal to utilise all the resources of the CBI towards anti-corruption work and not the resources of the anti-corruption wing only. The CBI's anti-corruption unit will be ineffective without the support of the other units of the CBI. For effectively combating corruption, the CBI and the Lokpal should act in tandem and the similar model can be replicated in respect of the state Lok Ayakutas.

Of course, the Lokpal can build up gradually its own investigation wing by getting officers on deputation from the police and the CBI. This will be a time-consuming affair. Further, transfer of officers lock, stock and barrel from the CBI will not be possible without the consent of individual officers. There will be reluctance on the part of officers to opt for service under the Lokpal as this will not be under the state, and officers of the Lokpal will not enjoy rights under Articles 309 and 311 of the Constitution.

The need of the hour is to invigorate the CBI and give it a statutory basis, strengthen its functional autonomy and insulate it from extraneous pressures and influences. This was the recommendation of the L.P. Singh Reform Committee in 1978 and of the Parliament Standing Committee on Personnel, Public Grievances, Law and Justice in 2008. The committee was against the creation of another anti-corruption agency because this will lead to the overlapping of jurisdiction, conflict of interests, lack of synergy. In the proposed anti-corruption architecture, the CBI has to play an important role, and for this purpose it should be strengthened by giving functional autonomy and not divided by taking away its anti-corruption wing.

However, the larger issue to be borne in mind is that the creation of a powerful institution of Lokpal, though a very important measure, is not the only antidote to corruption. China has severest punishment (execution) for those charged with corruption after running summary trials. But this has not resulted in reduced corruption there. If there are sufficient gains from a transaction, the bribe-giver will seek to tempt the bribe-taker by increasing the size of the bribe and the latter may feel that the risk is worth accomplishing. This will be a paradoxical and unintended outcome of having a strong anti-corruption agency.

Further, the Lokpal Bill should be one of the electoral and governance reforms that should be on the agenda of Parliament. Implementation of the Supreme Court's directives on police reforms brooks no delay. For the delivery of swift and fair justice, the Judicial Standards and Accountability and Rights to Justice Bill is equally vital. There is also need for electoral reforms so that legislators with a criminal background and antecedents cannot contest elections. A Lok Sabha having 76 MPs with criminal background diminishes parliamentary democracy and sullies the Constitution.

The writer, a Senior Fellow at the Institute of Social Sciences, New Delhi, is a former Director-General, National Human Rights Commission.

Discretion by anti-corruption leaders would help

Rajesh Kalra

If the media is to be believed, Anna Hazare's movement for Jan Lokpal, spearheaded by India Against Corruption's Arvind Kejriwal, the father and son Bhushan duo and Kiran Bedi is a fragmented lot now. A disconcerting number of analysts and commentators, who had put their weight behind the movement a few months ago, have started finding fault with the shape it is taking.

For a team that could do nothing wrong just a few months ago, it seems they can get nothing right now. First, Kejriwal, the livewire behind the movement really, was quoted as saying that Anna is above parliament and then Prashant Bhushan was thrashed inside his own chamber in the Supreme Court premises for speaking in favour of Kashmiris' right to decide their future.

We are a nation that has been brainwashed into believing that parliament is sacrosanct. I say brainwashed, since some of the worst shenanigans that ail this nation are played out within the circular walls of that building. Given that, Arvind's statement was a complete no no. I have little doubt that what was finally commented upon and believed by a lot of people was a twisted version. But that did not matter. For those, and that number is very big, who are uncomfortable with Arvind's meteoric rise, this was an opportunity to browbeat him with. And they made the best of the opportunity.

Similarly, Prashant Bhushan, the legal brain behind the movement and someone who has the respect of his peers as also the judiciary for his legal acumen (as well as his activist style), earned the wrath of the very people who supported him by speaking the unacceptable on Kashmir.

Just like parliament is sacrosanct, Kashmir is an unalienable part of the country and any statement that goes against this view is unacceptable to the masses.

Given that, while I was taken aback by the pretty vicious attack on Bhushan, I was not surprised. The nation is far too touchy about some emotive issues and when you have several detractors who would add fuel to any fire that can help them, such a situation was not beyond the realm of possibility.

I have often said that the so called Team Anna are NOT full time employees of IAC or any anti-corruption movement. Instead, they are individuals who have come together in their individual capacity for a cause. Given so, they are entitled to have their views on issues that are not related to corruption. However, while that may be the right approach, by the book if I may add, the truth is that when you acquire such a high profile in a movement, you must also weigh every utterance you make. The sensitivities of the very people who support you can never be trifled with. Prashant's statement on Kashmir and Arvind's on Anna being above parliament clearly failed on that parameter.

Apart from this, a lot of supporters also felt uncomfortable with the team's open support for or against some of the candidates in elections. This act took the sheen off the apolitical image the movement had so far projected. While they may have tried to say they were opposed to anyone not supporting Jan Lokpal, given that the media is no longer as supportive as it once was, the message that went across was not what the movement leaders had expected.

Not surprisingly, the hawks, waiting to discredit the movement are having a field day, and I am not even referring to the likes of Digvijay Singh, or the government's plants in the movement like Swami Agnivesh. I am referring to the general perception that gains ground due to such negative reports day in and day out.

It has been a movement that had taken the nation by storm. It would be a pity if it is allowed to peter off by playing into the hands of those who want the status quo on corruption to remain. Worse, discrediting it would kill the spirit of the common people who thought they could be the agents of change. A cause is always bigger than an individual and it must not be sacrificed at the altar of dirty tricks.

ECONOMIC DEVELOPMENT

Economic policy: Shooting in the dark

Mythili Bhusnurmath

What was India's gross domestic product (GDP) growth rate during the first quarter of the year? Is industrial production rising or falling? What about services? What is the [inflation](#) rate? Is it rising or falling? The list can go on and on. For, the truth, unpalatable as it might be, is we really don't know.

As a result, [economic policy](#) formulation has become more like a game of shooting in the dark. Policy authorities don't know which way to turn in a scenario where the three pillars of a sound statistical database - credibility, timeliness and adequacy - are absent.

Forget the arcane debate about whether the Reserve Bank of India (RBI) should use the wholesale price index ([WPI](#)) or the consumer price index ([CPI](#)) - and if it is the latter, which of the three CPIs, urban, rural or national - while taking a view on monetary policy. That is a trifling matter of detail compared with the far more important issue of whether the index used gives us an accurate measure of inflation. This is not a matter of academic interest; rather, it has huge implications for policy.

Take, for instance, the RBI's forthcoming (on October 25, 2011) second-quarter review of monetary policy. As the central bank wrestles with the dilemma of whether to continue, pause or stop in its tracks, it needs to know, and with far more certainty than at present, how far its policies have slowed down the level of economic activity, how far they have impacted inflation and so on. In short, it must be able to get its finger on the pulse of the economy and also a measure of the pulse rate.

Unfortunately, it is not able to do so at present, thanks to the flaky data that it is, perforce, compelled to rely on. Inevitably this impacts both the quality of the decision-making as well as the outcome.

Garbage in, garbage out! The RBI, in fact, has paid a heavy price for its reliance on dodgy data. As [RBI](#) governor D Subbarao pointed out in a recent speech, "Policy is framed real time and if the provisional data that these are based on are inaccurate, the resultant policies can turn out to be suboptimal choices.

"Take, for instance, estimates of [GDP](#) growth. The advance estimate of GDP growth in 2009-10 growth at market prices in February 2010 was 6.8%. That was changed to 7.7% in the revised estimate in May 2010 and further to 9.1% in the quick estimate in February 2011. Therefore, policy that perforce had to use information on the advance estimate of GDP was fraught with the risk of underestimating the growth momentum."

Likewise, during December 2008-June 2009, when the global financial crisis was at its peak, the index of industrial production (IIP) showed positive industrial growth even though one would have expected a deceleration; a fact that was subsequently borne out by the new IIP series (with 2004-05 as the base). Any policy based on the first set of data would, therefore, have been way off the mark. It is not only GDP or IIP data that suffer from infirmities. Data on wholesale price index (WPI) inflation too has been subject to large revisions, usually upward.

Ironically, data compilation was relatively easier in the licence-permit raj where the state oversaw almost every aspect of economic activity. But the demise of the earlier system and dependence on voluntary compliance has meant steady erosion in data quality. The problem is particularly acute when it comes to data on agriculture and the services sector.

In the former, old systems such as the village patwari (revenue collection officer) that were used to collect estimates of crop areas under cultivation have fallen into disuse and have not been replaced by new systems. As for the services sector, all we have is a five-year survey from which data is extrapolated to get annual data.

Unfortunately, despite the setting up of the National Statistical Commission, nothing much has changed at the grassroots level. We need a drastic change in mindset with both central government ministries and state governments according much more importance to the collection of statistics.

The collection machinery needs to be beefed up in tandem; today, there is a huge dearth of field-level staff that can be entrusted to collect data. Back in the middle of the last century, Sir Josiah Stamp, the well-known economist and statistician, pointed out, "The government [is] extremely fond of amassing great quantities of statistics.

These are raised to the nth degree, the cube roots are extracted, and the results are arranged into elaborate and impressive displays. What must be kept ever in mind, however, is that in every case, the figures are first put down by a village watchman, and he puts down anything he damn well pleases."

As the world prepares to celebrate the second World Statistics Day later this week (20 October) and the RBI its policy stance, it is only appropriate to highlight the importance of reliable and timely statistics.

This moment of crisis

Pratap Bhanu Mehta

The crisis of liberal capitalism is threatening to become the crisis of liberal democracy. The level of social disquiet sweeping advanced economies is not surprising. Slow growth, high unemployment, uncertain financial future, prospects of protracted structural adjustment and the loss of a clear narrative about how to emerge from this crisis would galvanise any citizenry into protest. The form and shape of these protests are, as yet, inchoate. But it is their very lack of cohesion that portends a deeper crisis.

Two different aspects of an implied social contract have broken down. The first underpinned the legitimacy of capitalism. This legitimacy was premised on three claims that are unravelling. The first was the idea that private production would lead to social gain. Broadly, this proposition still holds true. But the experience of finance has been seen as the opposite: public subsidy for private gain. Large swathes of finance are not just seen as destabilising, but the growth produced by this sector is seen as chimerical: an elaborate Ponzi scheme, leveraging various kinds of regulatory arbitrage, without any real productivity gains.

The second premise was that inequality would be justified in two ways. The performance of those to whom large gains would accrue would somehow merit it; and the system of inequality would produce gains for all. But the merit claims of those in finance who got the most by way of bonuses and salaries turned out to be a mirage: a product of the entirely self-fulfilling claims of elites. Rising poverty and stagnant middle class wages make the social gains from inequality more doubtful.

The third premise was the possibility of endless productivity transformations that would keep these advanced economies in leadership positions. But there is now a real worry that this downturn may be more structural than temporary.

The second aspect of the social contract has to do with democracy. Democracy does not just require robust formal institutions or participation. Democracy depends upon a deep system of social checks and balances, where different groups and social classes counter each other's power, to produce a tense equipoise. This requires fragmentation of power not just in formal institutions, but also in society. It was once argued that the core of liberalism is the delicate art of separation. The one way in which power is fragmented intelligently in society is by sequestering the effects of power in one domain, over power in another. So, typically, you don't want the interests of the wealthy to dominate the political spectrum, or distort law, or fully determine equality of opportunity in education. This sequestering has never been perfect. Limiting the power of wealth over areas other than the economy has always been a key challenge for liberal democracies. The big shock has been the recognition that these checks and balances had broken down.

In retrospect, what is remarkable about the last couple of decades is this. Wealth has always exercised disproportionate influence in democracies. But its ability to take over and reorient all countervailing institutions became unprecedented. Labour movements had long been decimated. A sense of local community solidarity was swept away in the unprecedented mobility of globalisation. Other countervailing forces fared no better. The corporatisation of media produced public discourse that blindsided citizens to reality. Social media has been a revenge of sort. But it is better at giving expression to anger than organising serious shared narratives. As professions moved from being guilds to market-driven services, they came to legitimise the same norms that reinforced the runaway power of the privileged. In short, institutions that should

have been counterweights to economic inequality reinforced it. Democracy was supposed to fragment power, not concentrate it. States and markets were meant to counter each other, not exacerbate each other's weaknesses.

But just as potential countervailing forces were being weakened, the noose began to be drawn around the public's neck in other ways. In the US, institutions like the courts also appeared to lurch rightwards in areas they should have been more cautious. The court's campaign finance judgments, for example, have made it all but inevitable that the power of money increases. Second, a lot of so-called democratic experimentation played right into the hands of small elites. Deeper forms of direct democracy, including referendums in California, arguably made the state less governable. The primary system, the signal achievement of US intra-party system, has worked in ways that empower extreme voices within parties. Campaign finance changes have made the system more perversely dependent upon the power of money. In short, institutional experimentalism did not produce the desired results. The beauty of the current crisis is not the triumph of a small elite; it is how it used the means of democratic empowerment to achieve its goals.

Third, there was the ideological shift. There is no denying that the current crisis was, in part, induced by a set of intellectual norms that got embedded across a vast range of institutions. Finally, there was the element of citizens' complicity: a strange cabal of intellectuals, the political class and wealthy kept the illusion going that there were no hard choices to be made, whether on credit, consumption or taxes. When the day of reckoning came, citizens felt cheated.

Even after the crisis, the elites had an opportunity for self-correction. But they continued to pretend as if nothing had changed. The anger has come after ample opportunities for course correction. Second, the distribution of the costs of adjustment matters a great deal. And there is

a justified sense that the privileged have paid very little of those costs. Third, there is still no credible narrative of hope. It is tempting to present this crisis as a small aberration, induced by lax regulation. But the gnawing feeling that for the West something fundamentally might be changing is hard to disguise. While the US has potentially more resilience, the underlying sensibility of decline will pave the way for a politics of fear more than hope.

The protests are inchoate because they could not have been embedded in any of the traditional institutional forms. They are struggling to imagine new institutional forms. Protests are good at one thing: restoring a sense of agency. But whether they can reckon with the deep historical forces shaping our times is an open question. The terms of the social contract have to be rewritten. Capitalism has to justify itself in terms of social gains, and democracy in terms of empowerment. But at the moment no one quite understands what all of this might mean.

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INTERNATIONAL RELATION

Fortifying our future

Kalpana Kochhar

The World Bank and International Monetary Fund just concluded their annual meetings in Washington. At an event on nutrition in South Asia, the evidence presented was clear and astonishing. On the one hand, South Asia has experienced robust economic growth averaging 6% a year over the past 20 years. On the other hand, the region continues to have unacceptably high rates of malnutrition with Bangladesh and India having a higher proportion of malnourished children than even the poorest countries in Sub-Saharan Africa. This seems inexplicable to many, and indeed is referred to as the 'Asian Enigma'.

There is considerable evidence that malnutrition affects not only children's chances of survival but also their cognitive capacity and learning ability. Losses of up to 13 IQ points have been attributed to micronutrient deficiencies in children under two. And children who learn less, earn less. A recent study in Guatemala showed that children who received nutritional supplements up to age three had significantly higher scores on cognitive tests and earned 34-47% higher wages as adults than those who had not received these inputs.

Some continue to question the data, even suggesting that South Asian children should be held to a different growth standard, despite the extensive evidence showing that the global growth references are credible. As documented by the World Health Organisation's 2008 multi-country study, it is now well established that our children have the same genetic growth potential through two years of age as other children globally, if given the same opportunities in terms of food, healthcare, hygiene and environment. Indeed, a study by the Nutrition Foundation of India found that the growth curves of well nourished Indian children

are indistinguishable from those of similarly nourished children in other parts of the world.

So, what explains this ‘enigma’? Researchers have spent considerable effort on this. We know that pregnant women in South Asia put on less weight during pregnancy than they should: 5 kgs on average compared to the worldwide average of close to 10 kgs. Too often, new mothers are still children themselves, a staggering 75% of them are anaemic, and some one-third of all babies in India are born with low-birth weights. We know that poor hygiene, combined with dense populations, leads to the frequent occurrence of infections which deplete young children of nutrients. We also know that while not genetic, malnutrition is inter-generational, meaning that it takes a few generations for the once malnourished girl to become the grandmother of a well-nourished child.

The ‘World Development Report 2012: Gender, Equality and Development’ highlights issues on the persistence of malnutrition in South Asia. Malnourished adolescent girls cannot deliver healthy babies. Literate and more empowered mothers have better nourished children. Recent analyses in Bangladesh reaffirm evidence that when women are involved in household decisions and have control over earnings, their children are better nourished, and that a woman’s experience of abuse and acceptance of domestic violence had a significant negative impact on her own nutritional status, affecting her ability to produce a healthy newborn. In general, efforts to improve gender equality will be critical to reducing South Asia’s disadvantage in nutrition.

In order to attain a fully healthy and well-nourished — and even more intelligent and productive — population, we need to improve access to nutritious and diverse foods, clean water, sanitary environments, female education, pre-natal services and knowledge and support for appropriate child care, such as exclusive breast-feeding for the first six months. It is possible. Take Mexico, for example. The country took a targeted approach to address malnutrition and achieved remarkable results. There

was a marked reduction in infant mortality, increases in children's height, higher enrolment rates in secondary and high school, better educational attainments, and a reduction in failure and drop-out rates between primary and secondary school.

Clearly, there are important lessons for South Asia from other countries as well, such as Thailand and Brazil that have reduced malnutrition to very low rates. First, an integrated multi-sectoral approach is needed. Second, if we invest in the right strategies, investing in nutrition has very high economic returns. Third, households respond to incentives, as has been demonstrated by the use of conditional cash transfers to encourage better nutritional practices. Fourth, the issue is not access to food alone, but access to income and information; more food per se will not necessarily solve the problem. And last, high level leadership is necessary to steer an initiative that if carefully designed and targeted can cost just about 0.5% of GDP annually.

The good news is that we see high-level commitment to addressing malnutrition across the region. Prime Minister Manmohan Singh has emphasised the importance of this issue and state nutrition missions have been launched. We know what works, what needs to be done and the remedies need not be expensive. We now need the political will to make sure that South Asians receive the adequate nutrition they need to become fully productive members of their societies. If we would take on the nutrition challenge, South Asia will build strong human capital for the future and we could experience even higher economic growth and far more impressive results in other indicators of development.

Kalpna Kochhar is the chief economist for the South Asia region, World Bank, The views expressed by the author are personal.

Issues before IBSA

Challenges for Indian diplomacy

THE grouping that covers three continents, IBSA (India, Brazil, South Africa), is gradually getting recognised as a major player in the emerging global scenario. This may get underlined as Prime Minister Manmohan Singh interacts with the leaders of South Africa and Brazil in Pretoria on Tuesday. IBSA like BRICS (Brazil, Russia, India, China, South Africa) has come up as an effective grouping capable of influencing the course of events at the world level. It is not without reason that the IBSA Fund has been given the UN Millennium Development Goal award. IBSA plus Russia and China, which constitute BRICS, together carry considerable weight. This, however, does not mean that IBSA should function only as part of BRICS. Both have their own significance, as Dr Manmohan Singh pointed out on Sunday before leaving for South Africa. The discussions at Pretoria may have their impact on the issues that may be taken up at the coming G20 summit in France.

The greatest worry for the world today is the economic slowdown in the West. It must be reversed as soon as possible to prevent the scenario from getting worse. The Barack Obama administration is working overtime to successfully handle the economic woes of the US as the crisis may adversely affect his victory chances when he will try his luck for a second term in the next presidential elections. The European Union, too, is using all the resources at its command to bail out the European economies in trouble like those of Greece, Spain and Portugal. But all eyes are fixed on India and China, the two key members of BRICS, which may have to play a more aggressive role for stabilising the global economy.

India must use the opportunity to ensure that it gets its due in the UN system. It has a solid case for the Security Council's permanent membership which must be highlighted at the Pretoria summit. There is also need to get IBSA's support for the new role that India has got to play in the peace process in Afghanistan. It is in India's larger interest to see to it that the recent happenings in West Asia also come up for discussion. The countries affected by the Arab Spring are looking towards India particularly for laying the foundations for a democratic order in the Arab world.

LAW

Making the law easier for the common man

N. R. Madhava Menon

The Restatement of law seeks to identify and remove the ambiguities surrounding the legal principles, and clarify the law for its better adaptation to the needs of society.

One of the reasons for popular dissatisfaction with the administration of justice is the uncertainty of law which sometimes results in miscarriage of justice. The multiplicity of interpretations, the inadequacies of legislative drafting, ambiguities in policies and the variety of languages in which transactions are made add to the confusion and make repeated litigation inevitable. The use of simple English is now being canvassed in Common Law countries for legislative drafting and legal documentation. In the United States, complex and ambiguous laws have been simplified, codified and re-stated by the American Law Institute for the convenience of the legal community and the litigant public. In India , the problem persisted, alienating people from the law itself and providing litigants and advocates their heyday to often delay and manipulate the process to their advantage. The rule of law and access to justice have been in jeopardy in the circumstances

On October 11, Chief Justice of India S.H. Kapadia released three Restatement volumes in New Delhi on three different legal subjects prepared by a committee headed by senior Supreme Court judge R.V. Raveendran (since retired) and published by the Indian Law Institute. The volumes are on various themes which have for long been discussed in the public domain without any clarity or certainty on where the law stands for guidance of the people who are supposed to know it in any case. It is doubtful whether the lawyers and judges who are the experts

to advise the litigants are themselves clear on the various issues involved.

The Restatement Series, which the Supreme Court started with, included Legislative Privileges, Contempt of Court and Public Interest Litigation. The event marked a quiet revolution in the simplification, clarification, consolidation and dissemination of the law authoritatively. It is all the more significant that the project was initiated without any public funding and through the voluntary contribution of time and expertise by the contributors, consultants, editors and publishers. Even the printers and distributors have agreed to price the publications in the public interest at the bare cost of paper, ink and printing. Soon it may be available free in digital form as well.

What is Restatement and how does it help the public? According to Mr. Justice Raveendran, Restatement is intended to be an authoritative neutral statement of the law on the subject, identifying and removing uncertainties and ambiguities surrounding the legal principles and clarifying the current law for its better adaptation to the needs of society. The subjects are areas of Indian law where there is need for clarity and simplicity benefiting not only the legal community but, more importantly, civil servants and the general public.

The method of producing the Restatement is not the usual one adopted in writing books or drafting documents. The Restatement Committee deliberated on the choice of subject from the point of the public interest, the legal doctrines and principles involved, the issues that deserve clarification, the uncertainties or ambiguities to be removed and the structure of presentation to serve the multiple consumers of the Indian law. Care has been taken to avoid views and opinions on what the law ought to be and to make the propositions purely based on statutes and judicial pronouncements so that the Restatement is an authoritative reproduction of current law which can be acted upon by lawyers and judges whenever differing judgments from different jurisdictions offer

diverse interpretations on the same issue. Thus, it can save judicial time and expedite disposal of cases. Lawyers may not have to carry or cite multiple decisions or run the risk of overlooking judgments; nor need judges be afraid of being misguided by overruled propositions or amended statutory provisions.

The Restatement draft involved two revisions — first when it was sent for critical feedback among selected expert consultants and, second, when the revised text was scrutinised by the editorial committees consisting of judges, jurists and academics. The concern all through has been to ensure clarity and accuracy and, to a large extent, the three volumes fulfil these objects. These Restatements are thus an easily accessible, clearly understandable, non-technical statement of the current law otherwise spread into many constitutional provisions, voluminous statutory texts, innumerable judicial pronouncements — sometimes conflicting and confusing. If they are translated into vernacular languages, the general public will have free access to understand the law, which is fundamental for access to justice.

It will be interesting to know that the contributors of the three volumes include busy lawyers such as K.K. Venugopal and Gopal Subramaniam, of course, ably assisted by a number of bright young lawyers practising in different courts. S. Sivakumar, Research Professor of the Indian Law Institute, co-ordinated the preparatory work and oversaw the production of the volumes in a uniform format.

Congratulating the Supreme Court Project Committee and the Indian Law Institute, the Chief Justice of India said this ambitious project would publish Restatements on various important topics in future and Justice Raveendran would continue to be its Chairman even after his retirement. Justice Raveendran, in turn, announced a list of topics which would engage the priority attention of the Committee for preparation of further Restatements in the coming years.

But it is sad that a major project of great public interest in reaching the law to people at the instance of the highest court has gone unnoticed by the government, the media and civil society. Though it is not the function of judges, the interest and investment they have put in the effort will be appreciated by civil society as the project brings more Restatements on laws affecting the daily lives of common people. What the government can do is to support the project with funds, undertake translations of the volumes in all official languages and reach them to people through panchayats and other local bodies so that the rule of law prevails with the removal of ignorance. In fact, if the grass-roots courts proposed under the Gram Nyayalaya Act have to function through an informed conciliatory process, both parties should have an authoritative knowledge of the laws that regulate their transactions, and understand the rights and obligations under them. Even the gram panchayats can function effectively without bureaucratic dependence only when the law and the Constitution become unambiguously familiar to the elected representatives. Looked at from this perspective, the Supreme Court's Restatement of Indian Law Project is nothing short of a rule of law revolution in the making, possibly heralding the success of democracy and constitutional governance.

The law governing contempt is shrouded in mystery despite there being a statute and innumerable pronouncements by the Supreme Court clarifying its scope. Yet the common people and journalists are uncertain about the principles involved, the scope of the statute and the constitutional limitations on contempt power. Similar is the case with the privileges of elected representatives of the State Assemblies and Parliament. Such a situation in the functioning of two important institutions of governance is prejudicial to democracy and the rule of law. This is what the two Restatements attempt to redeem by clarifying the current law on the subject. Of course, the law can change with changes in society and Restatements may need to be updated whenever new editions are planned. Furthermore, Restatement can never act as a substitute for professional advice if and when legal action is required.

Yet they help to avoid problems and to solve problems effectively as and when they arise.

Public Interest Litigation is a legal tool invented by the Indian judiciary for giving a voice to those vast masses who would otherwise have not been able to access justice because of ignorance, incapacity and the way the system works. For that very reason, it is a part of the jurisprudence of the masses which they ought to know for seeking justice. In the absence of any statute on the subject, the law has to be articulated from judicial practice and pronouncements over the last several decades and more. This is what the Restatement on the subject has done for the lasting credit of the Indian justice system. If Restatements are brought out on the Right to Education, Health, Food, Work, Clean Environment and a corruption-free government, the common man can hope to be less prone to exploitation and more empowered to seek remedies under the law.

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POLITICS AND GOVERNMENT

Charting a different course

ARUN MAIRA

Whither India? Cracks are appearing in our growth story. Everyday a new scandal, with faith in institutions of government and capitalism running low. We are arguing, not agreeing. The questions on the minds of all Indians are: How will we get going again? And towards what vision?

"Nations without vision shall perish," says the Bible. [Yogi Berra](#), the baseball player, said more matter-of-factly, "If you do not know where you are going, you will end up somewhere else." To unite us, we need a shared vision of the goal and the path we will take. India's economic ideology should be neither [neo-liberalism](#) nor communism, both of which have failed to deliver a just and sustainable world. India will have to create a new way: of inclusive democratic capitalism.

India must become a deeper, more inclusive democracy. It is the largest democracy because it is the most populous country in the world to elect its government. However, India is not the deepest democracy yet. Deep democracy requires government 'of the People, for the people, and by the People' too. We have government of the people. But Indians are not convinced that their government is for the people. They want it to be more accountable to them.

Even more, deep democracy must be government by the people too. A democracy in which citizenship is not merely the right to vote for members of assemblies, but a democracy in which citizenship is also the active management by people of their own affairs. Four decades after

granting its people universal adult franchise, the [Indian Parliament](#) passed the 73rd and 74th amendments to the Constitution to empower people to manage their own affairs in their villages and towns. Two decades have passed since then. The deepening of democracy those amendments sought remains to be implemented.

The people of India are rising again with [Anna Hazare](#) as a talisman, demanding a democracy that is not merely an election time democracy, but a deliberative democracy in which they can participate to shape the rules by which they are governed. Elected representatives are feeling threatened by the people's demands for participation in shaping laws. India has mastered the processes of conducting fair elections on a scale no other country can. Now, for inclusive democracy, we must create processes for people to participate in decision-making in between elections too. They should not have to protest on the streets and go on hunger strikes to make their elected governments notice their dissatisfactions.

India must be an inclusive economy. It continues to struggle for inclusive growth, the aim of its 11th and 12th five-year Plans. Sadly, India's citizens are not convinced their planners understand what inclusion really means. They are upset by planners' definitions of poverty. On the other side of this debate, economists are concerned that more subsidies and hand-outs are not sustainable. India must find another way - more sustainable and more inclusive - for the growth of its economy. Deeper and more sustainable inclusion will come from extensive opportunities for all people to participate in the creation of growth, not through an uncertain trickle down to them after the growth. Therefore, we need an economy whose growth is driven by businesses for the people, by the people, and of the people too.

Innovations are required to provide affordable and accessible goods and services to the people at the 'bottom of the pyramid'. This is the profit opportunity for businesses that are for the people. As well, people need

incomes and jobs to lift themselves out of poverty. Therefore, innovations are required in business models that will provide more jobs so that business is by the people too.

Employees of enterprises owned by others can have incomes, but cannot share in the creation of wealth, the fruits of which go entirely to their capita-list owners. For fuller inclusion in the benefits of growth, innovations are required in enterprise design by which the producers become owners too. Such are businesses of the people. In this vision, India, a country of over a billion democrats, will also be a country of hundreds of millions of capitalists. Indeed this was Mahatma Gandhi's vision. His charkha was a symbol. In his vision for India, people would be earners and also owners of their enterprises, even if tiny. This is a vision of deep democracy and deep capitalism: a vision of inclusive democratic capitalism. Rabindranath Tagore envisioned a country 'not broken into fragments by narrow domestic walls'. Let us be less argumentative and more cooperative. If politics is the exercise of power to shape the course of a nation, politics cannot be the monopoly of politicians. And if the purpose of planning is to shape the future in which people will live, it must not be the monopoly of planners. People must participate in planning too.

In the progress of nations, and the lives of their citizens, the means are the ends. India needs a tangible vision of the lives of people, not the size of its economy. Visions that engage people with the changes they must bring about can never be merely numbers. Hardly any Indian wakes up every morning wondering what she should do to achieve 9% economic growth. Visions must be evocative images of the qualities of the lives and hopes of people. In an inclusive democracy, people must participate in shaping the vision. Let us shape a vision of the journey towards our destination, in which every Indian has all three freedoms - political, social, and economic.

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RIGHT TO INFORMATION

The no of things

Jug Suraiya

By law, all packaged foods must have a list of their ingredients marked on them. As consumers, we have a right to know what we are putting into our bodies. Similarly, many modern restaurants have what is known as an optic kitchen which allows patrons to see what goes into what they are about to eat, how hygienic or otherwise are the conditions in which they are being made. Optic kitchens are a guarantee of transparency, quite literally, in catering establishments.

The biggest catering establishment in the country, in a manner of speaking, is the sarkar. It cooks up all the diverse policies and rules and regulations which sustain us in our day-to-day lives and affect our physical, social and economic well-being. Is a particular sarkari decision or course of action a recipe for progress or for disaster? We, who elect the sarkar into office, have the right to know what goes into whatever it is that is being dished out to us. This is what the Right to Information Act is, or ought to be, all about. It is the sarkar's version of the transparent optic kitchen.

It was in acknowledgement of this basic democratic right that UPA-I brought in the Right to Information Act which would enable common citizens to find out what it was that the sarkar was up to — or down to — and the hows and whys relating to the various issues in question. Why was it that a particular road remained potholed and unnavigable though several crores of rupees had reportedly been spent on its supposed repairs? How was it that a particular sarkari project was delayed by several years and at huge cost overruns? Who was

responsible, and what could be done to redress the situation? We had a right to know. And UPA-I conceded that right.

Now, beleaguered by a series of scams and exposes involving its members and its allies, UPA-II seems to be backtracking on, or at least side-stepping, its earlier commitment to the RTI Act. The PM has said that "certain grey areas" of the legislation had to be relooked at as there were "concerns that (they) could discourage honest, well-meaning public servants" from doing their jobs. The director general of the Standing Conference of Public Enterprises (SCOPE), U D Choubey, has reportedly gone a step further by saying that the RTI Act was hurting India's economy by as much as a 2% loss of GDP by causing delays in administrative procedures. It would appear that, to many elements in the sarkar, transparency is a hindrance to efficiency.

Activist Aruna Roy — who as a former IAS officer knows about the workings of government from first-hand experience — has challenged this assertion, saying that the bureaucracy had been inefficient and corrupt long before the advent of the RTI Act which, if anything, would help to make the sarkar more accountable to the people. But this is exactly what all too many representatives of the sarkar — from politicians to bureaucrats to members of the judiciary — do not want.

Knowledge is power. That is the neo-brahminical credo of the sarkar, which wants to keep knowledge, and with it the power, exclusively to itself. If people have a share in knowledge they have a share in power, which means that much less power in the hands of the sarkar. If knowledge is power, the opposite of knowledge, ignorance, is servitude. Instead of being there to be of service to the people, the sarkar has ensured that the people are of service to it, and it wants to maintain this status quo. You and i might want to be in the know of things. The sarkar will do its damndest to see that we remain in the no of things; no as in no-ledge instead of knowledge. Our ignorance is the sarkar's bliss.

**Need to revisit RTI
But don't weaken the law**

PRIME MINISTER Manmohan Singh's call for a critical look at the landmark Right to Information Act (RTI) seems reasonable. There are frivolous queries that waste government resources and manpower. Governments are ill-equipped to handle the stepped-up workload brought on by the popularity of the RTI Act. State information commissioners have cited examples of misuse of the Act. There are issues like whether the CBI, the Planning Commission and public-private partnerships should be brought under the RTI law. All these require a relook at the Act. But any attempt at dilution of this significant legislation, which was once touted as an achievement of the UPA government, is bound to meet with stiff resistance. This is evident from the sharp response Dr Manmohan Singh's statement has evoked.

A major reason for the BJP and RTI activists' suspicion of the Prime Minister's intention is the response of government representatives to the series of scandals and embarrassing developments that surfaced recently. Finance Minister Pranab Mukherjee has questioned the wisdom of making public 2-G documents which suggest P. Chidambaram as Finance Minister could have prevented the second-generation spectrum allocation scam. Corporate Affairs Minister M. Veerappa Moily has pointed out that the law is misused for playing "political mischief". Law Minister Salman Khurshid too has said that the misuse of the RTI Act is hampering "institutional efficacy and efficiency".

The Prime Minister's statement that "there are certain grey areas that require a further debate" should be seen in this background. After the recent scandals the government's credibility has touched a new low. It should avoid doing anything that fuels public distrust. The BJP is expected to politically exploit any slip-up on the hugely popular law. The process of making governance transparent cannot be slowed down

or reversed. Putting maximum information of public interest on government websites can reduce the rush of RTI queries. A government facing the onslaught of public anger at corruption cannot afford to be seen as weakening the law that exposes government inefficiencies and shortcomings.