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## **“SOCIAL CAPITAL”**

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## “SOCIAL CAPITAL”

### Introduction

Collective efforts and cooperative action have been a part of human behaviour right from the early days of civilisation. Gradually such collective action led to formation of small habitations, communities, villages and thereafter large cities and metropolises. They in turn, created complex social groups and governmental organisations. In course of time, government and society became too big and formalized and somewhat distant from the common man. Thus, evolved a need for mutual networking and interactions for solution of issues.

The term ‘Social Capital’ was first used by L.J. Hanifan, a State Supervisor for Rural Schools in Virginia in 1916. He used it in the context of the community’s involvement in the successful running of schools.

Social capital now stands accepted as a necessary element of development theory. In many cases it provides a cogent explanation for the failure of economic policies. The notion that a set of macro-economic policies supported by appropriate institutions would necessarily transform an economy often does not work in actual practice. Policies and institutions operate in an ensemble which is strongly conditioned by sociological parameters. Socio-cultural elements influence political and economic factors to behave in ways that considerably change the pace of the economic processes. Social Capital and Trust are elements of cohesion in society and entrepreneurship and are vital for setting in processes that expand social, economic and political opportunities. They lead to formation of specialised groups and organisations generally known as Social Capital Institutions or the third Sector.

Theoretically, social capital organisations are supposed to play four crucial roles in society:

- a) **The Service Role:** It encourages people to cope with a public problem at the primary level. People tend to let non-profit organisations lead the way in responding to critical public needs. The non-profit sector thus functions as a first line of defense, a flexible mechanism through which people concerned about a social or economic problem can begin to respond, without having to convince a majority of their fellow citizens that the problem deserves a more general, government response. Non-profit organisations are also available to sub-groups of the population who desire a range of public goods that exceeds what the government or society is willing to support. Non-profit organisations have a readymade role in planning hospitals, universities, social service agencies and civil organisations.
- b) **The Value Guardian Role:** The role of the non-profit sector is to function as a “value guardian” in society, as exemplar and as embodiment of a fundamental value emphasizing individual initiative for the public good just as private economic enterprises serve as vehicles for promoting individual initiative for the private good. In the process, non-profit bodies foster pluralism, diversity and freedom. These values go much beyond purposes such as improving health or enhancing school enrolment. They are important as expressions of what has come to be regarded as a central feature of modern society – a sphere of private action through which individuals can take initiative, express their individuality, and exercise freedom of expression and action.
- c) **The Advocacy/Social Safety-Valve Role:** Non-profit organisations also play a vital role in mobilizing public attention to societal problems and needs. They are the principal vehicle through which communities

can give voice to their concerns. In fact, most of the social movements that have animated western society over the past century – the movement for women's suffrage, protection of civil rights and the initiative to protect environment, all took shape within the non-profit sector. By highlighting social and political concerns, by giving voice to under-represented people and by integrating these perspectives into social and political life, these organisations function as a kind of safety-valve that helps to preserve democracy and maintain a degree of peace in the contemporary polity and society.

- d) The Community Building Role:** Finally, non-profit organisations play a vital role in creating and sustaining social cohesiveness through bonds of trust and reciprocity that seem to be pivotal for a democratic society and a market economy to function effectively.

There are several ways in which social capital can improve government performance. First, it can broaden government accountability; government must be responsive to citizens at large rather than to narrow sectarian interests. Secondly, it can facilitate agreement where political preferences are polarized. Thirdly, it induces innovation in policymaking. Finally, it enhances the efficiency of delivery of many services at the local level through involvement of residents.

In concrete terms, the growth of social capital leads to evolution of a healthy civil society manifesting as a distinct entity in the space between public sector (government) and the business (markets) – often called the third sector or non-profit sector. Depending on the strength and vivacity of civil society, third sector organisations can assume the following four major forms:

- Small community based initiatives with modest funding e.g. Resident Welfare Associations. Such a network is usually dependent on pure voluntary action of the group. But, if the group seeks to expand its activities, it will need external financial support.
- Large structured groups with well-defined organisational patterns and goals. They do not have an apparent profit motive, but generally work on financially sustainable basis. Such an organisation does have a financial base of its own, but often gets considerable support from external agencies as well e.g. Societies, Trusts, and Waqfs.
- There is a third category which is in business, but for certain well defined social objectives. In such organisations, surpluses are ploughed back and reinvested in the activity itself. They may need to interact with the government also e.g. Cooperatives.
- The fourth set of social capital institutions are regulatory professional groups/ associations consisting of qualified people who join together to run their profession in accordance with certain laid down principles and policies e.g. the Bar Council of India and the Institute of Chartered Accountants.

### Evolution and growth

As already stated, the term social capital came into the Western lexicon in the latter half of the 20th century but, in some form, it has been a necessary element of agrarian life in India right from the early days of our civilisation. The Rigveda refers to some elements of collective social entrepreneurship which manifested in the form of charity / faith based philanthropy as a duty and responsibility of a conscious human being. During the reign of the Mauryas and Guptas (4th century BC to 5th century AD) and even later, a strong village community based on collective entrepreneurship and social cohesion was in existence across the country. The modern concept of social capital may partly be thought of as an offshoot of the above tradition of :

- a) Charity / faith based philanthropy; and
- b) Strong and cohesive community life.

- **Social Action Groups and Self-Help Movement**

In later years, with the emergence of the Industrial Revolution in Europe, political ideas of equality, human rights and social welfare led to formation of intellectual groups and thereafter of organisations which started taking up issues of social concern. In India, such social action groups began taking shape in the early 19th century. The socio-cultural regeneration in 19th century India was occasioned by the colonial presence, but not created by it. Ideas of social reform combined with national sentiment led to the formation of Societies and Sabhas such as the Brahmo Samaj, Arya Pratinidhi Sabha, Arya Samaj, Prathana Sabha, Indian National Social Conference etc. The Ahmediya and Aligarh movements, the Singh Sabha and the Rehnumai Mazdeyasana Sabha represented the spirit of reform among the Muslims, the Sikhs and the Parsees respectively. Religion being the dominant ideology of the period, to some extent, it influenced the growth of the reform movement in the country.

During the struggle for Independence the whole emphasis of the Gandhian movement was on self-help and cooperation. To Gandhi ji the swadeshi movement was “the greatest constructive and cooperative movement in the country”.

- **Corporate Foundations**

Towards the end of the 19th century the corporate community in India also began setting up organisations dedicated to the welfare and development of the underprivileged.

- **Socio-Political Movement and Growth of Constitutionalism and Equity**

On the socio-political front, Vinoba Bhave's Bhoodan and Jai Prakash Narain's Sarvodaya movement were the two major voluntary action initiatives which caught the attention of people across the country in the 1950s and 60s. These movements were based on a large network of selfless and dedicated volunteers who were deeply impressed by the ideology of the above two great figures.

Towards the 1970s and 1980s, the growth of constitutionalism and the emergence of economic liberalisation fueled ideals of equity, human rights and expansion of economic opportunities.

- **Cooperatives**

In the early years of the 20th century, government thought of organizing farmers into voluntary groups which could secure cheap farm credit on a collective basis and thus save them from usurious practices of money lenders. Thus, cooperative societies were born. A legislation was enacted in 1904 titled the “Cooperative Credit Societies Act, 1904”. The inspiration for this Act had come from the success of the cooperative movement in Europe. Though, the first steps in this direction were initiated by the government, the concept received excellent response from rural India and within a few years a number of cooperative societies were in existence in large parts of the country. The Act was further refined in 1912. Provinces like Bombay, Madras, Bihar, Orissa and Bengal made all out efforts to expand cooperatives in their territory and made their own enactments on the pattern of the 1912 Act. The Reserve Bank of India which was established in 1934 had agriculture credit as one of its primary functions and by extending refinance facility to the village cooperative system it played an important role in spreading the cooperative movement to all corners of the country. After Independence, the reports of the All India Rural Credit Cooperative Survey Committee (1951-54) and formation of District and Apex Cooperative Banks in the 1960s provided further fillip to this sector.

### *Existing Laws*

After Independence the Union and State Governments enacted several laws with regard to Public Trusts, Waqfs, Producer Companies, other voluntary sector / civil society organisations and cooperative societies. As on date the existing major laws on the subject are as follows:

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- The Societies Registration Act, 1860
- The Indian Trusts Act, 1882
- The Charitable Endowments Act, 1890
- The Trade Unions Act, 1926
- The Charitable and Religious Trusts Act, 1920
- The Bombay Public Trusts Act, 1950
- The Waqf Act, 1954
- Section 25 of the Companies Act, 1956
- The old State Co-operative Acts and the new Mutually Aided Co-operative Societies Acts (operative in nine States)
- The Multi-State Co-operative Societies Act, 2002
- Laws on Self-Regulatory Authorities such as the Indian Medical Council Act, 1956; the Advocates Act, 1961; the Chartered Accountants Act, 1949; the Cost and Works Accountants Act, 1959; and the Architects Act, 1972
- Acts/Amendments enacted by different States after 1947

### **Social Capital Organisations and India's Constitution**

The Indian Constitution provides a distinct legal space to social capital / civil society institutions

- a) Through its Article on the right to form associations or unions – Article 19 (1)(c);
- b) Through Article 43 which talks of States making endeavour to promote cooperatives in rural areas; and
- c) Through explicit mention in entries made in Schedule 7.

### **Government Policy**

The Union Government in its National Policy on the “Voluntary Sector” (formulated by the Planning Commission and approved by the Union Cabinet in May, 2007) stipulates that “Voluntary Organisations (VOs) mean to include organisations engaged in public service, based on ethical, cultural, social, economic, political, religious, spiritual, philanthropic or scientific and technological considerations. VOs include formal as well as informal groups, such as: Community-Based Organisations (CBOs); Non-Governmental Development Organisations (NGDOs); charitable organisations; support organisations; networks or federations of such organisations; as well as Professional Membership Associations”.

### **Civil Society as a Major Economic Force**

With liberalisation of the economy and globalisation, there has been a phenomenal growth in the number of non-governmental organisations across the world in the last few decades. Experts say that India has more than two million NGOs, Russia four lakhs and in Kenya some 240 NGOs are formed each year. The United States has an estimated two million non-profit organisations which employ more than eleven million workers – about eight per cent of the nation's total workforce. They are further supported by a large number of unpaid volunteers (about six millions) who have strong individual initiative and commitment to social responsibility. The presence of NGOs ensures depth and resilience in civil society. It gives expression to citizens' voices. It enables them to take responsibility for how their society is performing and allows them to talk to their government in organised ways. In India too, this sector is emerging at a fast pace.



Such a vast network of socio-economic institutions has the potential to play an important role in many key governmental policy objectives:

- a) It can help to scale up productivity and competitiveness.
- b) It can contribute to inclusive wealth creation.
- c) Enhance the people centricity of the government.

### **Voluntary Sector – Its Classification**

The third sector / civil society organisations promote cooperation between two or more individuals through mutual cohesion, common approach and networking. Democracies inherently encourage such cooperative behaviour. The Indian Constitution too explicitly recognizes “right to freedom of speech and expression and to form associations or unions” as one of the core rights of its citizens under Article 19(1) and hence encourages formation of civil society groups and community organisations.

Based on the law under which they operate and the kind of activities they take up, civil society groups in our country can be classified into following broad categories:-

- a) Registered Societies formed for specific purposes
- b) Charitable Organisations and Trusts
- c) Local Stakeholders Groups, Microcredit and Thrift Enterprises, SHGs
- d) Professional Self-Regulatory Bodies
- e) Cooperatives
- f) Bodies without having any formal organisational structure
- g) Government promoted Third Sector Organisations

### **Societies, trusts / charitable institutions, waqfs and endowments**

#### *Legal and Institutional Framework*

**Legal Context:** The law concerning Societies, Trusts, Waqfs and other endowments in India can be placed in three broad groupings:

- a) Societies registered under the Societies Registration Act, 1860 and various States amendments on it after 1947;
- b) Those engaged in pure religious and charitable work registered under the Religious Endowments Act, 1863; the Charitable and Religious Trusts Act, 1920; the Waqf Act, 1995 and similar other State Acts;
- c) Trusts and charitable institutions registered under the Indian Trusts Act, 1882; Charitable Endowments Act, 1890; the Bombay Public Trusts Act, 1950; and similar other State Acts.

Societies Modelled on the English Literary and Scientific Institutions Act, 1854, the Societies Registration Act was enacted in India in 1860. Towards the middle of the 19th century coinciding with the 1857 event, a number of organisations and groups were established in the country on contemporary issues of politics, literature, arts and science. The above law was enacted partly to give such organisations a legal standing and partly, to enable the colonial government to maintain a watch on them. But, the Act was not intrusive at all and it gave full freedom to the Societies/organisations which chose to register with the government.

**Purpose for formation of Societies under the Societies Registration Act, 1860:**

It provides for formation of a Society for any literary, scientific, or charitable purpose, or for any such purpose as is described under Section 20 of the Act.

**Trusts, Religious Endowments and Waqfs**

Trusts, Endowments and Waqfs are legally created as modes of property arrangement/settlement dedicated for definite charitable and religious purposes. The details with regard to their incorporation, organisational structure and distribution of functions and powers are governed by the provisions of the specific law under which they are registered. Broadly, such organisations can assume a legal personality in the following five ways:

- a) By way of formal registration before the Charity Commissioner / Inspector General of Registration under the respective State Public Trusts Act e.g. The Bombay Public Trusts Act, 1950, the Gujarat Public Trusts Act, the Rajasthan Public Trusts Act etc;
- b) By invoking interference of civil courts to lay down schemes for governing a Trust under Sections 92 and 93 of the Civil Procedure Code;
- c) By registering the Trust deed of a Public Charitable Trust under the Registration Act, 1908;
- d) By notifying an organisation in the list of Charitable Trusts and Religious Endowments which are supervised by the Endowments Commissioner of the State or by a Managing Committee formed under the Charitable Endowments Act, 1890 or under other State laws on Hindu Religious and Charitable Endowments; and
- e) By creating a Waqf which could be managed under the provisions of the Waqf Act, 1995.

**Trusts:** Trust is a special form of organisation which emerges out of a will. The will maker exclusively transfers the ownership of a property to be used for a particular purpose. If the purpose is to benefit particular individuals, it becomes a Private Trust and if it concerns some purpose of the common public or the community at large, it is called a Public Trust. The first law on Trusts came into force in India in 1882 known as the Indian Trusts Act, 1882; it was basically for management of Private Trusts.

**Religious Endowments:** Religious Endowments and Waqfs are variants of Trusts which are formed for specific religious purposes e.g. for providing support functions relating to the deity, charity and religion amongst Hindus and Muslims respectively. Unlike Public Trusts, they may not necessarily originate from formal registration, nor do they specifically emphasise on a triangular relationship among the donor, Trustee and the beneficiary. Religious endowments arise from dedication of property for religious purposes. The corresponding action among the Muslim community leads to the creation of Waqfs. Waqfs tie up the property and devote the usufruct to people. The first legislation in this direction came up in the later half of the nineteenth century. The Religious Endowments Act, 1863 was basically a law on private endowments which placed a property under the management of Trustee/Trustees under a will for a predefined set of beneficiaries.

The Indian Constitution recognizes freedom to manage religious affairs as one of the fundamental rights of its citizen. According to Article 26 - "Subject to public order, morality and health, every religious denomination or any section thereof shall have the right:

- a) To establish and maintain institutions for religious and charitable purposes;
- b) To manage its own affairs in matters of religion;
- c) To own and acquire movable and immovable property; and
- d) To administer such property in accordance with law.

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**Waqfs in India:** Under Muslim rule in India, the concept of Waqf was more widely comprehended as aligned with the spirit of charity endorsed by the Quran. Waqf implies the endowment of property, moveable or immovable, tangible or intangible to God by a Muslim, under the premise that the transfer will benefit the needy. As a legal transaction, the Waqif (settler) appoints himself or another trustworthy person as Mutawalli (manager) in an endowment deed (Waqfnamah) to administer the Waqf (charitable Trust).

**Non-Profit Companies (Section 25 of the Companies Act, 1956):** Section 25 of the Companies Act, 1956 provides for a mechanism through which an Association can be registered as a Company with a limited liability, if such association is formed for promoting commerce, art, science, religion or any other useful object and intends to apply its profits/income in promoting its objects. The objective of this provision is to provide corporate personality to such Associations but at the same time exempting them from some of the cumbersome legal requirements.

**Trade Unions:** In terms of Section 2 of the Trade Unions Act, 1926, a “Trade Union means a combination, whether temporary or permanent, formed primarily for the purpose of regulating relations between workmen and employers or between workmen and workmen or between employers and employers, or for imposing restrictive conditions on the conduct of any trade or business, and includes any federation of two or more Trade Unions.”

The objective of the Trade Unions Act is to provide a legal existence and protection to the Trade Unions as defined above. A Trade Union can be registered under this Act along with the rules formed by them with regard to its objects, use of funds, maintenance of a list of members, manner of appointment of its members and executives, manner of dissolution etc. The concerned Registrar cannot refuse registration if all the technical requirements have been fulfilled at the time of filing application and the Union is not held to be unlawful.

### International Perspective on Charities

Beginning with small tuckshops in the early settlements of the USA, voluntary organisations have been in existence in some form or the other in the entire western world over the last two hundred years. During this period, an active relationship developed between the government and the voluntary sector. The United Kingdom, the USA, Canada, France and other countries of Europe have a fairly well developed system for regulation and promotion of this sector.

In a majority of these countries, revenue officials initially decide whether an organization is charitable. This approach is based on the assertion that revenue officials are non-partisan in their determination of charity registrations and that the tax authority is in the best position to administer the system of tax deductibility, including determining which organisations are eligible for tax exemption.

- The Charity Commission administers the Charities Act in England and Wales. The Act empowers the Commission to exercise regulatory jurisdiction over all matters concerning charities.
- In the USA and Canada, registration of a charity is a State responsibility but financial and tax regulation is through the Inland Revenue, which is a federal agency.
- There is easy access to data on charities:
  - (i) There is a Public Register of charities and
  - (ii) It is mandatory for a voluntary organisation to supply information on demand.
- An effective grievance redressal system is in place. There are provisions for appeals against decisions, and graded sanctions for violation of laws.

## Need for a New Legal Framework for Charities in India

The multiplicity of charity laws in India has prevented evolution and growth of a proper institutional framework in this sector. While, voluntary organisations often feel harassed in complying with various legal obligations, institutions of the government too have not been effective in regulating the sector and securing legal compliance. Instances of misuse of tax provisions, fraud and poor governance have become frequent. There is need to create an effective institutional mechanism which would provide a supportive environment for the growth and development of charities in this country. In this respect, one could learn from the governance structures. India being a federal Union, a decentralized institutional setup for charities similar to that existing in the USA, seems to be appropriate. The power of registration and oversight needs to lie with the State Governments.

In 2004, the Sampradan Indian Centre for Philanthropy conducted a study on charities administration in India under the sponsorship of the Planning Commission. The study suggested following four models in this regard:

- **Model 1** – Maintain the status quo, keeping the existing institutional arrangements as they are, but enhancing their performance by adopting certain recommendations for a more facilitative interface with the public, greater transparency of the regulatory process, measures for securing better compliance, and a better appeals process.
- **Model 2** – Create a functionally enhanced Charities Directorate in the Income Tax department, plus State level registering agencies, plus a NPO Sector Agency. The Charities Directorate would be the main regulatory agency, looking after monitoring and compliance, as in Canada and the USA, while the State level registering agencies would exist only for registration function. In addition, there would be an NPO Agency to advise the Charities Directorate. It will comprise of the representatives of the NPO sector, and professionals such as lawyers and Chartered Accountants. It would provide policy guidance, obtain feedback from the sector and set up review mechanism for achieving compliance.
- **Model 3** – Create a Charities Directorate and a mandatory NPO Sector Agency. The difference between this model and the one mentioned above is that the NPO Sector agency would be created by the government as an autonomous Body. It would have its own Governing Body, and professional staff, and would have the general function of promoting effective use of charitable resources by encouraging better management of organisations, and improving governance by providing Trustees with information and advice. It would also be responsible for compliance education function. It would be a permanent forum for dialogue that this sector has been demanding and would be the interface between the government and the sector.
- **Model 4** – Create State level Charity Commissions supported by a NPO Sector Agency. There would be an Appeals Tribunal too. This model suggests setting up a Charities Commission on the UK model. It would be concerned not only with financial regulation but also with the promotion and development of the sector.

### Model law for Societies and Trusts

In order to create a uniform legal environment across States, the Commission suggests that the Union Government should formulate a comprehensive model law covering both Societies as well as Trusts. This model law could be sent to the States who could adopt it with suitable modifications. While, it will not be possible here to suggest a detailed draft, the broad framework and the views of the Commission on some illustrative issues are indicated in the following paragraphs.

The following three key elements would need to be explained in the proposed law:

**a) Defining Charity and Charitable Purpose**

The new law will need to draft a composite definition based on the contents of the original Societies Registration Act, 1860, various amended State Acts, the Bombay Public Trusts Act, 1950, Section 92 of the Civil Procedure Code and Section 2(15) of the Income Tax Act, 1961. The definition of “Charity” and “Charitable Purpose” provided in the UK Law covers almost all the objectives listed in the extant Union and State laws and the same can be kept in mind while formulating the new legislation.

**b) Institutional Mechanism**

In place of the present charity administration consisting of a Charity Commissioner / Inspector General of Registrations as existing in the States, the proposed law would provide for a new governance structure in the form of a three-member Charities Commission in each State with necessary support staff. It will be an autonomous Body created by law. It will have laid down functions and responsibilities and will be accountable to the State assembly through a nodal Minister.

The functions of the Charities Commission would include:

- Registration of Non-Profit Organisations (NPOs).
- Maintaining a public register of NPOs.
- Receiving reports from NPOs.
- Audit and monitoring.
- Disseminating information on good practices / methods of management among voluntary organisations.
- Holding public discussions/consultations.
- Bringing out simple publications to educate the public about NPOs.
- To review periodically the social and economic environment of the charities.
- Acting as a permanent forum for dialogue with the sector on issues of policy and regulation.
- Administering sanctions and penalties for non-compliance.
- Resolving grievances.

**c) Interface with the State Government**

At present, a non-profit organisation’s interaction with the State authorities consists of the following –

- a) Government’s power with regard to grant of permission for alteration of the memorandum, alienation of property or inclusion of the change report;
  - b) Government’s powers of inspection;
  - c) Powers to cancel registration;
  - d) Powers to appoint an administrator;
  - e) Powers to modify / annul a decision of the Governing Body;
  - f) Powers to dissolve the institution; and
  - g) Powers to impose penalty.
-

In view of such vast powers available to the State machinery, there is a feeling among the NPOs that the sector has virtually become a subordinate formation of the State Government. The Commission is of the view that the NPO sector should have freedom in their functioning (as per the intent of their memorandum). Government's interface with these organisations should be minimal and the government should work only as a facilitator and developer.

**Recommendations:**

- a) The Union Government should draft a comprehensive model legislation covering both Trusts and Societies in lieu of the existing laws on Societies, Trusts, Endowments and Charitable Institutions etc.
- b) In place of the present charity administration consisting of a Charity Commissioner / Inspector General of Registrations as existing in the States, the proposed law should provide for a new governance structure in the form of a three member Charities Commission in each State with necessary support staff for incorporation, regulation and development of Charitable Organisations. The Chairman of the Commission should be a law officer drawn from the cadre of District Judges. Out of the other two members, one should be drawn from the voluntary sector and the other would be an officer of the State Government. In addition, the State should also have a Charities Tribunal which would exercise appellate powers over the orders of the Charities Commission.
- c) The proposed model legislation should indicate a cut off limit with regard to the annual revenue of a Charity. Organisations having an annual income below this threshold will have lighter compliance requirements with respect to submission of returns / reports / permission etc. However, if irregularities are detected in their functioning, the organisations will be liable for legal and penal action. To start with, the cut off limit could be set at Rs.10 lakhs which could be reviewed for upward revision once in five years.
- d) The government should set up an Inclusive Committee which will comprehensively examine the issue of defining 'Charity' and 'Charitable Purpose' and suggest measures to "soften" charities-government relationship, particularly in tax matters.
- e) The model legislation should take into consideration the views and suggestions made above with regard to the following issues of charity administration:
  - Interface with the State Government
  - Alteration in the memorandum
  - Approval on change report
  - Alienation of immovable property
  - Contribution by Public Trusts to the State Government

### **Revenues of the Third Sector**

Third Sector Organisations in India raise funds primarily from four major sources viz. individuals, private foundations (national as well global), business houses and government. In recent years, the diaspora is also playing a leading role in contributing to social causes.

#### • **Individual Donations**

In India, individual donations to charity organisations has been meagre. While the quantum of donation to the voluntary sector from government and foreign donor sources has increased considerably during the past decade, private philanthropy by individuals, Trusts, foundations, and corporates has not expanded commensurately.

- **International Aid Bilateral Assistance**

Many agencies such as the Department for International Development (DFID) (British Government), Swedish International Development Cooperation Agency (SIDA) (Swedish), Norwegian Agency for Development Cooperation (NORAD) (Norway), and Danish International Development Agency (DANIDA) (Denmark) are permitted to support NGOs directly without seeking specific project approval from the Government of India. However, some of the agencies need specific project approval of the Government before they can finance an NGO. In addition, bilateral fund support to the Government of India or to a State Government or to other government agencies, often, specifies the percentage of funds that must be spent through non-governmental organisations. The recent increase in bilateral funding to the government has increased the flow of funds to NGOs.

- **Corporate Philanthropy**

- a) **Donations**

The system of corporate donation for philanthropic activities has a history in India. In earlier times, merchants supported relief activities during the times of flood or famine. They built temples, promoted schools, and encouraged artistic pursuits. In the pre-Independence era, many big business houses set up Trusts and Foundations to support schools, colleges and charitable hospitals. Later, some of the multinationals also joined in.

- b) **Corporate Social Responsibility (CSR)**

‘Corporate Social Responsibility’ may be defined as a corporate entity’s commitment to welfare of society and community and its adherence to ethical values. The term may be relatively new in the Indian lexicon but the concept is certainly not. Traditions of “trusteeship”, “giving” and “welfare” have existed since long in our society. The concept of social good has always been part of the Indian psyche. From the beginning of the 20th century, business and industry in India have in different ways been paying attention to their obligation and commitment towards society and the community. The large number of schools, colleges, hospitals and other charitable establishments, which were set up in the 20th century in different parts of the country, are fine examples of such social commitment.

*Second ARC Recommendations:*

1. *When a community benefit project is taken up by a corporate entity, there should be some mutual consultation between the company and the local government so that there is no unnecessary overlap with other similar development programmes in the area.*
2. *Government should act as a facilitator and create an environment which encourages business and industry to take up projects and activities which are likely to have an impact on the quality of life of the local community.*

3. **Government Funding**

Both the Union and State Governments provide considerable budgetary support to voluntary organisations on a wide range of activities like rural technology, concerns of social welfare, primary education, maternal and child health care, adult education, empowerment of women and rehabilitation of the disabled. Apart from making direct disbursement of grants to voluntary agencies, Government of India has also set up especially empowered Autonomous Bodies to provide support to the activities of the Third Sector Organisations (TSOs). The Central Social Welfare Board (CSWB) and National Institute of Public Cooperation and Child Development (NIPCCD) are two such prominent Bodies dealing with Government – NGO interface in the social welfare sector, while the Council for Advancement of People’s Action and Rural Technology (CAPART) is an agency which finances voluntary organisations to stimulate grass roots participation and encouragement of rural technology. There are more than 437 such autonomous organisations functioning under various Ministries of the Government of India excluding those under Scientific Departments.



## Accreditation of Voluntary Organisations

Accreditation is a formal recognition of the achievements of an organisation, linked to some internal / external norms such as commitment to long term aims and objectives, organisational ability, adherence to financial norms, transparency and accountability etc.

It is generally agreed that accreditation could be best done by the voluntary sector itself. However, attempts to form a Self-Regulatory Body of voluntary organisations in the country have not succeeded so far. There is a feeling that government needs to be involved in this process.

The process of accreditation and certification undertaken for the voluntary sector should be based on the following principles:

- a) Accountability and transparency
- b) No ranking or ratings
- c) Norms will have to be compatible to the sector

The Commission has carefully considered the whole issue and agrees with the view that:

- a) Accountability to stakeholders and transparency in the functioning of the voluntary sector is essential; therefore, there is a need for accreditation of VOs through an independent agency like the National Accreditation Council. This Body could be set up by law.
- b) Accreditation does not amount to ranking or rating of VOs. It is a stamp of transparency, accountability and credibility.
- c) To start with, the government needs to place an appropriate corpus of fund at the disposal of the NAC, which could be supplemented by donations. Thereafter, the Council could finance its activities by charging fees from its clients. Such system of accreditation/certification should be applicable only to those organisations which seek funding from government agencies. In order that the parameters adopted are clear and transparent and the actions taken by NAC are independent, it is advisable that the constitution of the Council, its functions and procedures are clearly spelt out in the law.

### *Second ARC Recommendations:*

- a) *There should be a system of accreditation / certification of voluntary organisations which seek funding from government agencies.*
- b) *Government should take initiative to enact a law to set up an independent Body – National Accreditation Council – to take up this work. In the beginning, Government may need to provide a onetime corpus of funds to this organisation.*
- c) *The above law should provide details with regard to the constitution of the Council, its functions, its powers to levy appropriate fees from the applicants, and other related matters.*

## Charitable Organisations and Tax Laws

The Income Tax Act, 1961 is a Union legislation, which applies to all voluntary organisations (Trust, Society or Company) uniformly throughout India. Any voluntary (non-profit) organisation engaged in a charitable work, defined as “relief for the poor, education, medical relief, and the advancement of any objects of general public utility not involving any activity for profit”, can claim tax exemptions and other benefits under the Income Tax Act, 1961 subject to the conditions and restrictions contained therein.

Broadly, the Income Tax Act provides benefits to charitable organisations in the following three ways:

- a) Certain incomes are not included in the total income
- b) Deductions to be allowed from the profit and gains of business and profession
- c) Deductions to be made in computing total income for the purposes of calculating tax liability on the total income

**Second ARC Recommendations:**

- a) *Under Section 12AA and Section 80G, the registration or approval should be granted or an order rejecting the application should be passed within a period of ninety days from the date of filing of the application instead of the present one hundred and eighty days.*
- b) *In view of the fact that infrastructure projects are a critical component of charitable institutions, the period for accumulation of surplus which is currently five years needs to be further enhanced.*
- c) *The present National Committee may be replaced by four Regional Committees to recommend "deduction on expenditure" to the Union Government under Section 35AC of the Income Tax Act.*

### **Regulation of Foreign Contribution**

The Foreign Contribution (Regulation) Act, (FCRA) 1976 has the primary objective of regulating the acceptance and utilisation of foreign contribution or foreign hospitality by certain persons or associations, with a view to ensuring that Parliamentary and political associations, academic and other institutions as well as individuals working in important areas of national life may function in a manner consistent with the values of a sovereign democratic republic. The Act prohibits acceptance of foreign contribution by election candidates, journalists, public servants, members of the legislature, and political parties or their office bearers (Section 4), and allows Associations having definite cultural, economic, educational religious or social programme to accept such contributions after complying with certain requirements (Section 6).

The requirements are:

- a) That the Association shall register itself with the Union Government in accordance with the Act;
- b) Shall agree to receive such foreign contribution only through a particular branch of a Bank as specified in the application for registration, and
- c) Shall give an intimation to the Union Government as to the amount of each foreign contribution received, the source from which it was received, and the manner in which such foreign contributions was utilized.

The Foreign Contribution (Regulation) Bill, 2006 provides, inter alia, to

- a) Consolidate the law to regulate, acceptance and utilisation of foreign contribution or foreign hospitality and prohibit the same for any activities detrimental to the national interests;
- b) Prohibit organisations of political nature, not being political parties from receiving foreign contribution;
- c) Bring Associations engaged in production or broadcast of audio news or audio visual news or current affairs through any electronic mode under the purview of the Bill;
- d) Prohibit the use of foreign contribution for any speculative business;
- e) Cap administrative expenses at fifty per cent of the receipt of foreign contribution;
- f) Exclude foreign funds received from relatives living abroad;

- g) Make provision for intimating grounds for refusal of registration or prior permission under the Bill;
- h) Provide arrangement for sharing of information on receipt of foreign remittances by the concerned agencies to strengthen monitoring; (ix) make registration to be valid for five years with a provision for renewal thereof and also to provide for cancellation or suspension of registration; and
- i) Make provision for compounding of certain offences.

A critical comparison of the changes proposed in the existing legal framework by Foreign Contribution (Regulation) Bill, (FCRB) 2006 is given below:

The Bill has become a subject of intense debate and is being perceived as an intrusive piece of legislation which intends to place charities, receiving foreign donation under the subjective scrutiny of the authorities. The main arguments are:

- The aim of the Bill, as stated in the preamble is to prohibit the acceptance and use of foreign contribution for activities detrimental to ‘national interest’. The term “detrimental to national interest” leaves scope for subjective interpretation.
- There are several grounds on which a certificate of registration could be refused. The words like likelihood of diversion of funds for ‘undesirable’ purposes or not having undertaken ‘meaningful’ activity or not having prepared a meaningful project for the ‘benefit’ of the people admit subjectivity.
- The provision for renewal every five years could lead to harassment.
- The Bill gives the executive, wide discretionary powers to cancel a certificate of registration in the ‘public interest’. This is too broad, and open to subjective interpretation. Cancellation of the certificate should only be permitted upon breach of specific legal obligations.
- The powers of inspection, search and seizures may be tools for causing harassment to NPOs and puts them virtually in a position of subordination to the authorities.
- The provision for a cap of 50% on ‘administrative expenses’ is arbitrary and in many cases will stifle organisations working on projects which have high human resource content.
- The proposed Bill tries to place unnecessary restrictions on resources and investment of an organisation.
- The provision of the Bill prohibiting some categories of individuals from receiving foreign contributions goes against the principle of natural justice.

### **Reform of Registration Procedure**

In the context of development of social capital, the primary concern with regard to receipt of foreign contributions should be to ensure that genuine organisations are not harassed or their functioning impeded by byzantine procedures and red tapism.

The Commission is of the view that the process of registration under the proposed law on foreign contribution needs to be kept simple and there is a need to fix a time limit for issue of registration certificate / prior approval by the competent authority.

#### ***Rationalisation of Procedures***

The procedure for grant of a registration certificate under the FCR Act is long and cumbersome and causes harassment to applicants. The division in charge of the subject in the Home Ministry is grossly understaffed and thus ill-equipped to deal with the large number of applications it receives every year. For verification of antecedents of the applicant organisations, it relies primarily on inputs provided by the intelligence agencies. For these agencies, this work is a low priority item and hence, the whole process takes a lot of

time. Further, as per the intent of the Act, the Authorities have to ensure that the recipients of foreign contribution adhere to the stated purpose for which such contribution has been obtained. But in practice, this mechanism is very weak. Once the registration is granted, the matter goes into the sidelines. Scrutiny of the returns filed subsequently by organisations is reported to be perfunctory. As a result, the FCR Act is not meeting the objectives for which it was enacted.

**Second ARC Recommendations:**

- a) *The Foreign Contribution (Regulation) Bill, 2006 needs to be amended to include inter-alia the following suggestions:*
- i. *There should be a fine balance between the purposes of the legislation on one side and smooth functioning of the voluntary sector on consultation. In the absence of transparent rules / guidelines with regard to the procedure to be adopted for such consultations, the inter-agency reference leaves considerable scope for harassment, delay and corruption. The Commission is of the view that provisions of the Act need further elaboration with regard to*
    - a) *The minimum amount of donation which would require inter-agency consultation,*
    - b) *The level of the Authority which would authorize it, and*
    - c) *Setting up time limits for such procedures.*
  - b) *Currently, the entire work under the FCRA is being handled by a Division of the Home Ministry headquartered at New Delhi. The State Government and its machinery particularly the District Administration which are in a position to observe and monitor the activities of the NGOs in their areas are not involved in the process. The Commission is of the view that if some of the functions under FCRA are decentralized and delegated to the State Government/ District Administration, it will help in*
    - a) *Speedy disposal of registration petitions,*
    - b) *Close monitoring of their activities, and*
    - c) *Scrutiny of returns.*

Moreover, many organisations are in receipt of meagre funds but they have to undergo full compliance requirements under the provisions of FCRA, 1976. This leads to delay and harassment besides putting a strain on the administrative capacity of those charged with the task of scrutinising their returns. The Commission feels that a threshold limits with regard to the amount of foreign contribution received in a year by voluntary organisation needs to be fixed. Organisations receiving contribution below this limit in a year would be exempted from registration and other provisions of this law. At the end of the year, these organisations could simply file an annual intimation with the appropriate authority indicating the details of the amount of foreign contribution received and utilized by them during the period. If the authority has reasons to believe that the declarant has suppressed or misstated certain facts with the deliberate intention of remaining within the threshold limit, activities of such an organisation can be probed further. Such a scheme is operative in other enforcement laws e.g. the provisions regarding Small Scale Industries under the Central Excise Act, 1944.

**Second ARC Recommendations:**

- a) *The Foreign Contribution (Regulation) Bill, 2006 needs to be amended to include inter-alia the following suggestions:*
- i. *There should be a fine balance between the purpose of the legislation on one side and smooth functioning of the voluntary sector on the other. The objectives of such a regulatory legislation should be properly enunciated to avoid subjective interpretation of law and its possible misuse.*

- ii. *There should be a time limit for procedures falling under Section 11 (seeking registration or prior permission for receiving foreign contribution).*
  - iii. *Transparent rules/guidelines should be prescribed for inter-agency consultation particularly in respect of*
    - a) *The minimum amount of donation which would require inter-agency consultation,*
    - b) *The level of the Authority which would authorise it, and*
    - c) *Setting up time limits for such procedures.*
  - iv. *To facilitate (a) speedy disposal of registration / prior permission petitions received from organisations, (b) effective monitoring of their activities, and (c) proper scrutiny of returns filed by them, some of the functions under the Foreign Contribution (Regulation) Act should be decentralised and delegated to State Governments / District Administration.*
  - v. *Other concerns as stated above also need to be considered.*
- b) *Organisations receiving an annual foreign contribution equivalent to less than Rs.10.00 lakh in a year (the figure to be reviewed from time to time) should be exempted from registration and other reporting requirements of the law. They should be asked, instead, to file an annual return of the foreign contribution received by them and its utilisation at the end of the year. The law may provide that they may be liable to be investigated, if there is a reasonable suspicion of suppression / misrepresentation of facts, and penal provisions of the law will be used against them in case violation is established.*

### **Third sector organisations at the local level – Self-Help Groups**

Self-Help Groups are informal associations of people who choose to come together to find ways to improve their living conditions. They help to build Social Capital among the poor, especially women. The most important functions of a Self-Help Groups are (a) to encourage and motivate its members to save, (b) to persuade them to make a collective plan for generation of additional income, and (c) to act as a conduit for formal banking services to reach them. Such groups work as a collective guarantee system for members who propose to borrow from organised sources. Consequently, Self-Help Groups have emerged as the most effective mechanism for delivery of micro-finance services to the poor. The range of financial services may include products such as deposits, loans, money transfer and insurance.

#### **Financial Inclusion – Current Status in the Country**

One of the reasons for rural poverty in our country is low access to credit and financial services. As per a survey report of the NSSO (59th round), 45.9 million farmer households in the country (51.4%) out of a total of 89.3 million households do not have access to any form of credit from institutional or non-institutional sources. Overall, 73% of the households do not have credit links with any financial institution. This apart, the overall credit linkage portfolio when taken as a whole for the country, appears to be highly skewed with the North Eastern, Eastern and Central regions lagging far behind other parts of the country.

In 2006, the Reserve Bank of India set up a Committee under the chairmanship of Ms. Usha Thorat, its Deputy Governor, to suggest methods to expand the reach and content of financial sector services in the North-East. Submitted in July 2006; the Report of the Committee emphasized on large scale expansion of financial intermediation in the entire region. This could be done by (a) opening new branches of Commercial Banks in these areas; (b) increasing the number of accounts in the existing units; (c) adopting the business correspondent / facilitator model to increase the reach of Commercial Banks; (d) extensive use of Information Technology; (e) improving currency management / availability of foreign exchange facility; (f) providing insurance and capital market products through Banks; (g) introducing Electronic Clearing Services (ECS) and Real Time Gross Settlement System (RTGS); (h) strengthening the Regional

Rural Banks; (i) converting well established SHGs into cooperatives; (j) implementing the Vaidyanathan Committee's recommendations; (k) relaxing insistence on collaterals; and (l) enhancing the recovery capacity of the Registrar cooperative societies in the States to collect cooperative dues.

Again, in 2007, a Committee was constituted under the chairmanship of Dr. C. Rangarajan to prepare a comprehensive report on 'Financial Inclusion in the Country'. The Committee went into a large number of issues connected with (a) banking in remote areas, (b) empowerment of Self-Help Groups and their linkages with financial institutions and (c) revitalization of the RRBs.

One of the main findings of this Committee was that the scenario of credit access showed wide inter-region and inter-State variations.

The Rangarajan Committee came to a finding that currently there are 256 districts in the country (out of a total 617) spread across 17 States and 1 Union Territory which suffer from acute credit exclusion with a credit gap of over 95%. The Committee identified four major reasons for lack of financial inclusion:

- a) Inability to provide collateral security,
- b) Poor credit absorption capacity,
- c) Inadequate reach of the institutions, and
- d) Weak community network.

#### ***Evolution of the SHG Movement in India***

The first organised initiative in this direction was taken in Gujarat in 1954 when the Textile Labour Association (TLA) of Ahmedabad formed its women's wing to organise the women belonging to households of mill workers in order to train them in primary skills like sewing, knitting embroidery, typesetting and stenography etc. In 1972, it was given a more systematized structure when Self Employed Women's Association (SEWA) was formed as a Trade Union under the leadership of Ela Bhatt. She organised women workers such as hawkers, vendors, home based operators like weavers, potters, papad / agarbatti makers, manual labourers, service providers and small producers like cattle rearers, salt workers, gum collectors, cooks and vendors with the primary objective of (a) increasing their income and assets; (b) enhancing their food and nutritional standards; and (c) increasing their organisational and leadership strength. The overall intention was to organise women for full employment. In order to broaden their access to market and technical inputs, these primary associations were encouraged to form federations like the Gujarat State Mahila SEWA Cooperative Federation, Banaskantha DWCRA, Mahila SEWA Association etc. Currently, SEWA has a membership strength of 9,59,000 which is predominantly urban.

#### ***SHG Development since 1992 and NABARD***

Forming small groups and linking them to bank branches for credit delivery has been the most important feature of the growth of the SHG movement in our country. The SHG-Bank linkage programme was started as a test project in 1989 when NABARD, the Apex Rural Development Bank in the country, sanctioned Rs. 10.0 lakhs to MYRADA as seed money assistance for forming credit management groups. In the same year, the Ministry of Rural Development provided financial support to PRADAN to establish Self-Help Groups in some rural pockets of Rajasthan. On the basis of these experiences, a full-fledged project involving a partnership among SHGs, Banks and NGOs was launched by NABARD in 1992.

#### ***Other Agencies Involved in SHG Development***

Apart from NABARD, there are four other major organisations in the public sector which too provide loans to financial intermediaries for onward lending to SHGs. They are (a) Small Industries Development Bank

of India (SIDBI), (b) Rashtriya Mahila Kosh (RMK), and (c) Housing and Urban Development Corporation (HUDCO). Then, there are public sector/other commercial banks which are free to take up any lending as per their policy and RBI guidelines.

- **Rashtriya Mahila Kosh (RMK):** The Rashtriya Mahila Kosh was set up by the Government of India in March 1993 as an Autonomous Body registered under Societies Registration Act, 1860 under the Department (now Ministry) of Women and Child Development. The objective was to facilitate credit support to poor women for their socio-economic upliftment.
- **Microfinance Programme of SIDBI:** Small Industries Development Bank of India (SIDBI) launched its micro finance programme on a pilot basis in 1994 using the NGO / MFI model of credit delivery wherein such institutions were used as financial intermediaries for delivering credit to the poor and unreached, mainly women. Learning from the experience of the pilot phase, SIDBI reoriented and upscaled its micro finance programme in 1999. A specialised department viz. 'SIDBI Foundation for Micro Credit' (SFMC) was set up with the mission to create a national network of strong, viable and sustainable Micro Finance Institutions (MFIs) from the informal and formal financial sectors.
- **Kudumbashree Mission in Kerala:** The State Poverty Eradication Mission - Kudumbashree was launched by the State Government of Kerala in 1998 with the active support of Government of India and NABARD. The objective was to eradicate absolute poverty in 10 years under the leadership of Local-Self Governments.

#### *Private Initiative in SHG Development*

Though, government efforts have played a major role in advancing the SHG movement in the country, there has been a large number of voluntary organisations (NGOs) which too have facilitated and assisted SHGs in organizing savings and credit in different parts of India. SEWA in Ahmedabad, MYRADA in Karnataka, Nav Bharat Jagriti Kendra and Ramakrishna Mission in Jharkhand, and ADITHI in Bihar are some of the names which took the lead in promoting Self-Help Groups (mostly of women) around income generation activities using local skills. From organizing villagers into groups which could work on viable activities, to making a project and securing funds (own contribution or through a tie-up with the financial institution), these VOs have worked with involvement and dedication. PRADAN (Professional Assistance for Development Action), DHAN Foundation, ASSEFA (Association of Sarva Seva Farms, MALAR (Mahalir Association for Literacy, Awareness and Rights), SKS, Janodaya, Cohesion Foundation and Jan Chetna Sansthan are some of the other major non-governmental institutions which are promoting and nurturing a large number of SHGs of poor people, mostly women into effective organisations which could leverage credit from formal sources, and develop local resources and skills to increase productivity and income. It is thus, due to the combined efforts of the government and these private voluntary agencies that the SHGs have come to occupy a place of prominence in the socio-economic fabric of rural India.

#### *International Experience*

A major micro-finance experiment was initiated in Bangladesh by Mohd. Yunus in 1974-76 when he began lending to groups of poor people in areas neighbouring Chittagong. That was the period when the country was in the grip of a major famine. He realised that the only way out of poverty lay in going beyond the existing norm of the market and providing the very poor with non-guaranteed solidarity-based loans which could enable them to develop gainful economic activities. In 1976, after repeated resistance and refusals by Bangladeshi banks, Yunus succeeded in founding the 'Grameen Bank' which achieved the status of an independent bank in 1983. By 1994, this poor people's bank was directly serving two million people. The owners of the bank were women (94%) organised into solidarity-based groups of five. Contrary to expectations, these groups were prompt in paying back their loan instalments. The success encouraged the Grameen Bank to expand its group lending programme further and also to diversify into other activities like construction of schools and rural dwellings.

### ***Impact on Rural Life***

A random impact evaluation study covering 560 members of 223 SHGs linked to Banks located in 11 States was carried out by NABARD. A three year period was selected for this study. The results of this survey released in 200018 indicated that (a) 58% of the households covered under SHGs reported an increase in assets; (b) the average value of assets per household increased by 72% from Rs.6,843 to Rs.11,793; (c) majority of the members developed savings habit against 23% earlier; (d) there was a threefold increase in savings and a doubling of borrowings per household; (e) the share of consumption loan in the borrowing went down from 50% to 25%; (f) 70% of the loans taken in post-SHG period went towards income generation ventures; (g) employment expanded by 18%; (h) the average net income per household before joining a SHG was Rs.20,177 which rose by 33% to 26,889; and (i) about 41.5% of the household studied were below their State specific poverty line in the pre-SHG enrolment stage; it came down to 22%. Participation in group activity significantly contributed to improvement of self-confidence among the members. In general, group members and particularly women became more vocal and assertive on social and family issues.

The SHG programme has contributed to a reduced dependency on informal money lenders and other non-institutional sources.

It has enabled the participating households to spend more on education than non-client households. Families participating in the programme have reported better school attendance and lower drop-out rates.

The financial inclusion attained through SHGs has led to reduced child mortality, improved maternal health and the ability of the poor to combat disease through better nutrition, housing and health – especially among women and children.

### **But the SHG movement has certain weaknesses as well:**

- a) Contrary to the vision for SHG development, members of a group do not come necessarily from the poorest families;
- b) The SHG model has led to definite social empowerment of the poor but whether the economic gains are adequate to bring a qualitative change in their life is a matter of debate;
- c) Many of the activities undertaken by the SHGs are still based on primitive skills related mostly to primary sector enterprises. With poor value addition per worker and prevalence of subsistence level wages, such activities often do not lead to any substantial increase in the income of group members.
- d) There is lack of qualified resource personnel in the rural areas who could help in skill upgradation / acquisition of new skills by group members.

### ***Issues of SHG Movement***

The Commission has comprehensively considered the strength and weaknesses of this movement and it feels that the following eight issues of this sector deserve priority attention:

- Maintaining the participatory character.
- Need to expand the SHG movement to States such as Bihar, Uttar Pradesh, Madhya Pradesh, Orissa, Rajasthan and in the North-East (where the SHG movement and micro-finance entrepreneurship is weak)
- Need to extend small group organisations (SHGs) to peri-urban and urban areas.
- Mode of SHG development and financial intermediation
- Self-Help Groups and Regional Rural Banks



- Issues of sustainability
- Financial assistance to SHPIs and other support institutions
- Role of Micro-Finance Institutions

**Second ARC Recommendations:**

- The role of the Government in the growth and development of the SHG movement should be that of a facilitator and promoter. The objective should be to create a supportive environment for this movement.*
- Since a large number of rural households in the North-Eastern States and Central-Eastern parts of the country (Bihar, Jharkhand, Uttar Pradesh, Uttarakhand, Orissa, Madhya Pradesh, Chhattisgarh and Rajasthan) do not have adequate access to formal sources of credit, a major thrust on the expansion of the SHG movement in these areas should be facilitated. The presence of NABARD should be much more pronounced in these places.*
- The SHG movement needs to be extended to urban and peri-urban areas. State Governments, NABARD and commercial Banks should join together to prepare a directory of activities and financial products relevant to such areas.*
- Currently, the commercial Banks, on the basis of a project's financial viability can disburse microcredit in urban and semi-urban areas on their own but such micro-credit disbursements are not entitled to refinance from NABARD. If necessary, the NABARD Act, 1981 may be amended suitably to bring urban / semi-urban areas under its refinance mandate.*
- The SHG – Bank Linkage model with a mentor SHPI in tow deserves to be encouraged as the preferred mode for financial intermediation throughout the country.*
- Commercial Banks and NABARD in collaboration with the State Government need to continuously innovate and design new financial products for these groups.*
- There should be a planned effort to establish RRB networks in the 87 districts of the country which currently do not have RRB presence.*
- Special steps should be taken for training / capacity building of government functionaries so that they develop a positive attitude and treat the poor and marginalized as viable and responsible customers and as possible entrepreneurs.*
- Rural credit is often viewed as a potential Non Performing Asset. There is need to educate government employees and Bank personnel in this regard. Technology may be leveraged to reduce the cost of reaching out to the poorest of the poor.*
- There is need to review the scale of the promotional grant given to SHPIs by NABARD (currently Rs.1500/- per SHG formed and activated).*
- In order to scale up the operations of the RashtriyaMahilaKosh, its corpus should be enhanced substantially. RMK's geographical reach should be expanded to help quick processing of loan applications and effective monitoring of the sanctioned projects in far off areas. The Kosh may open adequately staffed regional offices at selected places in the country and give greater attention to the credit deficient States.*

### Self-regulatory authorities

The Self-Regulatory Authority of a profession means a select Body of its members which is responsible for growth and development of the profession in the background of its responsibility towards society and

State. The functions of such a Self-Regulatory Body may include: (i) issues of professional education: development of curriculum, setting up of teaching standards, institutional infrastructure, recognition of degrees etc. and (ii) matters connected with licensing, and ethical conduct of the practitioners.

Currently, there are six major professional Bodies operating in India each having been formed under a specific law.

- Bar Council of India (BCI) – formed under the Advocates Act, 1961
- Medical Council of India (MCI) – formed under the Indian Medical Council Act, 1956
- Institute of Chartered Accountants of India (ICAI) – formed under the Chartered Accountants Act, 1949
- Institute of Cost and Works Accountants of India (ICWAI) – formed under the Cost and Works Accountants Act, 1959
- Institute of Company Secretaries of India (ICSI) – formed under the Company Secretaries Act, 1980
- Council of Architecture (COA) – formed under the Architects Act, 1972.

Then, there are organisations like the Institution of Engineers which have been formed purely by voluntary action by respective members of the profession. They do not have any statutory background. All the above professions are vital for society and the economy of a country.

In general, there is a relationship of deep trust between a professional and his client. A professional practitioner is in a position to have access to the most personal details of a person and hence he is obliged to act in consonance with the principles of beneficence and justice to justify this trust. The professionals need to maintain high standards of practice and show respect for professional ethical values. The trust also implies that they update their knowledge, skill and ability at periodic intervals in order to deliver their services competently.

Currently, one of the major tasks of Self-Regulatory Authorities is to manage and regulate professional education. The National Knowledge Commission (NKC) which was constituted in 2005 with a mandate to prepare a blueprint for transforming the country into a knowledge society has gone into issues of higher education in the country (e.g. management, law, and medicine). One of its major recommendations is that professional education should be taken away from the domain of the existing Regulatory Bodies.

In this sequence, the National Knowledge Commission has recommended establishment of an Independent Regulatory Authority for Higher Education (IRAHE). The IRAHE must be at an arm's length from the government and independent of all stakeholders including the concerned Ministries of the government.

- The IRAHE would have to be established by an Act of Parliament, and would be responsible for setting the criteria and deciding on entry.
- It would be the only agency that would be authorized to accord degree-granting power to higher education institutions.
- It would be responsible for monitoring standards and settling disputes.
- It would apply exactly the same norms to public and private institutions, as it would to domestic and international institutions.
- It would be the authority for licensing accreditation agencies.

### *Second ARC Recommendations:*

- a) *Professional education should be taken away from the domain of the existing Regulatory Bodies and handed over to specially created agencies – one for each of the streams of higher/professional education. These Bodies may be called National Standards and Quality Council for Medicine, National Standards and Quality Council for Management etc. After this bifurcation, the work of the existing Regulatory Bodies' would remain confined to issues concerning registration, skill upgradation and management of professional standards and ethics. On creation of these separate Councils, the AICTE will stand abolished.*
- b) *Such Councils should be created by law and their role should be to lay down norms, standards and parameters on issues concerning growth and development of their stream viz. (a) setting up new institutions, (b) designing/ updating curriculum, (c) faculty improvement, (d) carrying out research / innovation, and (e) other key issues concerning the stream.*
- c) *The proposed law should take into consideration the following guiding principles while constituting these Councils:*
  - i. *Such Councils should have full autonomy.*
  - ii. *The highest policy and decision making Body of these Councils should have a majority of independent members, and preferably no more than 2 or 3 drawn from government, who could be there in an ex-officio capacity.*
  - iii. *These Councils should have a strong and effective grievance redressal mechanism.*
  - iv. *The Councils should be accountable to Parliament and their Report should be placed before the House annually. In addition, there should be strong norms for suo-motu disclosures under the RTI Act.*
  - v. *Each of these Councils should have a body of experts to advise it on accreditation / certification of institutions falling under their jurisdiction.*
  - vi. *Some of the members of such Councils can be elected from office bearers of specialty Associations (e.g. Indian Medical Association), as these members are elected by the practicing professionals in their individual speciality.*
- d) *Within such norms, standards and parameters, the Universities/ Autonomous Institutions should be given full autonomy for setting up and running institutions under their jurisdiction.*
- e) *The recommendations of the National Knowledge Commission regarding reforms in the structure, governance and functioning of Universities should be examined and implemented on priority. The process of appointment of Vice Chancellors should be free from direct or indirect interference of the government. Vice Chancellors should be given a fixed tenure and they should have adequate authority and flexibility to govern the Universities with the advice and consent of the Executive Council.*
- f) *There should be stronger ties between educational institutions in the public and private sectors through mechanisms such as exchange of faculty.*

#### • **Professional Updation**

In the present era when technology and skills are changing rapidly, there is need for professionals to update their knowledge and technical skills.

In order to provide specialised knowledge, ICAI offers short term post-qualification courses in management accountancy, corporate affairs and tax management. It has also introduced courses in information system audit, insurance and risk management, international trade laws and WTO. It conducts periodic programmes on computer aided auditing techniques.

*Second ARC recommended that Every Professional Regulatory Body in coordination with the respective National Quality and Standards Council and Academic Institutions should conduct continuing Professional Education programmes periodically for updation and skill enhancement of its members.*

- **Ethical Education and Training**

Decline of ethics among professionals can be attributed to two primary factors: (i) the tenor of the overall educational system; and (ii) impact of the environment. While behavioral changes can be brought about through carefully designed training programmes, trying to change entrenched mindsets is more difficult. It needs sustained efforts from all concerned. Ethics finds a very small space in our current academic content. There is need to give it a prominent place in the curricula being followed by professional institutions throughout the country.

*Second ARC recommended that After separation of professional education, the agenda of the Professional Regulatory Authorities should be to focus on (i) procedure for registration of new members / renewal of registration; and (ii) matters concerning professional ethics, standards and behavior. The Regulatory Authorities should also pay greater attention to conducting workshops, seminars and training programmes on such issues.*

- **Enrolment in the Profession**

As per the current practice, once a person successfully obtains a professional degree, getting registered as a member of the profession is almost a matter of routine. The candidate is asked to fill up certain forms, deposit a prescribed fee and thereafter he is enrolled as a practitioner. Such a perfunctory procedure is not in the interest of the profession. There is need to put in place a stricter procedure for enrolment / registration of new members.

*Second ARC recommended that within the parameters of the Act, the respective Regulatory Authority should be empowered to prescribe guidelines for enrolment of new members.*

- **Renewal/Revalidation of Registration**

As per the prevailing practice in our country, in all professions, once a person is registered as an entrant, he acquires a lifetime membership. No process of renewal or reregistration is needed thereafter. The only ground on which a professional could lose his membership would be a case of extreme deviant behaviour.

*Second ARC recommended that there should be a provision in the relevant laws that a professional registration/ license will need revalidation after a prescribed number of years. It could be done after successful completion of a course prescribed by the respective Professional Regulatory Authority.*

- **Disciplinary Mechanism**

A Professional Regulatory Authority sets and enforces standards in a profession so that its practitioners can earn the trust of their clients. The autonomy given to a Regulatory Authority in matters of discipline obliges it to preserve professional purity.

Though, the Regulatory Acts prescribe a mechanism for disciplining professional practitioners, in actual practice, the enforcement of ethical conduct among them remains weak. It is primarily because of two reasons: (a) there is reluctance on the part of the public to report cases of deviant behaviour because of (i) ignorance, (ii) respect for the profession or (iii) for fear of reprisal; and (b) many of these Bodies have not been able to develop a proactive attitude which could suo motu take cognizance of unprofessional / unethical behaviour of practitioners. The statutes need to be strengthened on these aspects.

*Second ARC recommended that there should be provision in the relevant laws that in order to bring objectivity in their working, the Disciplinary Committees of the Regulatory Authorities at both the State as well as the national level should consist of professional and non-professional members. They could be inducted in the Committee in the ratio of 60:40 respectively.*

*The law should provide that such Bodies should be required to complete the entire disciplinary proceeding within a prescribed time span (say 90 days).*

*The law should also have a provision that anybody aggrieved with the findings of the State Panel could go in appeal to the National (Apex) Body which too will have to dispose of the matter within the prescribed time limit (say 90 days).*

- **Composition of the Self-Regulatory Authorities**

**Interface between the Government and the Regulatory Bodies:** Regulatory Authorities have been given considerable autonomy by law. The intent of the law is to reassure the public that these Bodies will function without any constraint and provide quality service to them.

**Governing Structure:** In general, the Regulatory Authorities have been modelled on the Parliamentary form of government with an elected General Body and a smaller Executive outfit having nominated members.

- **Membership of the Governing Bodies**

Generally, there are four routes through which a professional can become a member of the Governing Council of a Professional Body (at both the State as well as the apex level) i.e. by election, by nomination, by co-option or by ex-officio membership.

- **Tenure of Office and Collective Leadership**

Free and fair periodic elections together with a short tenure for office bearers can promote collective and honest leadership. The control of an institution by a few individuals for a long period is not a healthy practice and invariably leads to growth of vested interests.

Any attempt to reform these Authorities would require adherence to the following four core principles:

**Effectiveness** – the need for the Regulatory Body to discharge its statutory functions as effectively as possible. These Bodies could operate effectively and speedily with inputs from key stakeholders and with much clearer lines of accountability, if the organisational structures are of appropriate size, simple and task oriented.

**Inclusiveness** – the need to have the confidence and participation of key stakeholders.

**Accountability** – the need to be accountable to stakeholders.

**Transparency** – the need to be open about the decisions and actions they take.

*Second ARC recommended that*

- The structure and composition of the General Council and the Executive Committee of Professional Regulatory Authorities should be rationalised. As far as practicable, it should be uniform for all of them.**
- Every Authority should have a fairly large and representative General Council (the ideal number could be around 50; such a Body encourages a wider perspective and diversity of opinions).**
- The Executive Committee should be a small Body consisting of 10 to 15 members (a compact forum supports administrative efficiency and accountability).**
- There should be an explicit provision that a person cannot be elected to the post of President / Vice-President or General Secretary for more than one term. However, a person could be elected as a member of a Body for a maximum of two terms.**

## • Committees and Working Groups

Though, the Executive Council / Committee is generally responsible for the overall day-to-day functioning of the Regulatory Body, it needs to be supported by specialist Committees / Working Groups. These specialist Committees and Working Groups should remain accountable to the Executive Council for the discharge of their functions. People from outside the Council could also be co-opted to such Bodies wherever found appropriate.

### *Recommendations:*

- a) The composition of the General Council as well as the Executive Committee should be such that 40% of the strength consists of lay members.
- b) The nomination of lay members should be done by the Ministry / Department concerned in consultation with the appropriate Regulatory Authority.

## Accountability and Parliamentary Oversight

Self-Regulatory Authorities enjoy considerable functional autonomy. Though, they are creatures of the law, their accountability is currently ambiguous and incomplete. The law does not provide for an explicit mechanism which can hold them responsible for their performance. The Public, Parliament, Government and the profession have a right to know how a Self-Regulatory Authority discharges its functions and to hold them accountable.

### *Recommendation:*

- a) **The laws governing the Self-Regulatory Authorities should have a provision under which the Regulatory Authority should be required to present an Annual Report to the Parliament for scrutiny.**

## Cooperatives

“A cooperative is an autonomous association of persons united voluntarily to meet their common economic, social and cultural needs and aspirations through a jointly owned and democratically controlled enterprise”. Cooperatives as business enterprise possess some basic interests such as ownership and control but these interests are directly vested in the hands of the user. Therefore, they follow certain broad values other than those associated purely with profit making. Need for profitability is balanced by the needs of the members and the wider interest of the community

### *History of Cooperatives in India*

The Indian cooperative sector completed 103 years of its existence in 2007. It was born during the later part of the colonial era' predominantly as a Government initiative to address the twin issues of farmers' indebtedness and poverty. This initiative was formalized in a legislation enacted in 1904 entitled the “Cooperative Credit Societies Act, 1904”. During a century of its existence, this sector has built a network consisting of more than 5.45 lakh individual cooperative organisations and over 236 million members. It is numerically the largest movement of its kind in the world.

Post-Independence, cooperatives were considered to be the part of the strategy of planned economic development. Pandit Nehru visualized an India in which each village would have a panchayat, a cooperative and a school<sup>23</sup>. Rapid and equitable economic development became the focus of the State policy. In the early 1960s, cooperative legislation all over the country underwent a major change on the basis of the findings of the All India Rural Credit Survey Committee (1951-54) formed under the Chairmanship of Shri A.D. Gorwala. The crux of the Committee's recommendations was that the State should play an active role in the spread of the cooperative movement. Based on these recommendations, States enacted new laws / amended the existing ones under Entry No. 32 of List II, Schedule 7 of the Constitution. The new legislations gave them a major role in the functioning of the cooperative institutions. Cooperative Societies

having jurisdiction over more than one State had to encounter different laws and therefore a need was felt to introduce a separate consolidated legislation for them. Parliament accordingly enacted a Multi-State Cooperative Societies Act in 1984 under Entry No. 44, of the List I of the Schedule 7 of the Constitution.

Co-operatives in India have had a chequered history. During the first few decades after Independence, this sector played a pivotal role in the economy by making significant contribution to our primary sector production. It had an important role in bringing food sufficiency through the green revolution, in building up a network for distribution of new varieties of seeds, fertilizers and cash credit and in creating an environment of participation and hope among the people. Beginning with Amul in Gujarat, it took extraordinary strides in the dairy sector too. Currently, 170 District Cooperative Milk Producer Unions and 22 State Dairy Federations deserve credit for (a) turning India into the largest milk producing nation of the world, and (b) bringing substantial raise in the family income of millions of milk producers across the country. But, even this sector has now begun showing some signs of fatigue. In many areas, production has reached a plateau and the rate of capital formation is inadequate.

### *Existing Weaknesses*

- **Bureaucratisation and Government control:** The government of Independent India, while championing the cause of cooperatives, not only retained this key position but also further added a complex hierarchy of bureaucratic power centres to the existing structure. Existence of such a government controlled cooperative infrastructure has gone against the very logic of the cooperative movement.
- **Politicisation of cooperative leadership:** The Boards of a majority of cooperative Bodies are dominated by politicians. They are cooperators by default. Many of them are in cooperatives because they want to use this position as a stepping stone for their political ambitions.

Further, the Indian cooperative sector has failed to inculcate two of the very essential cooperative values. The first is that of self-help. Self-help has been envisaged as a basic tenet of cooperatives. In its very genesis the movement is opposed to both Market as well as State.

The other important missing value is the member-centrality. Cooperatives by their very nature are inward looking organisations. They are meant to serve the member community unlike outward looking organisations such as the corporates which operate for profits. The focus of the activities of a cooperative organisation needs to be on its members.

- **Constitutional Context:** Cooperatives find mention in the Indian Constitution explicitly at two places: (i) in Part IV, Article 43 as a Directive Principle which enjoins the State Government to promote cottage industry on an individual or cooperative basis in rural areas, and (ii) in Schedule 7 as Entries 43 and 44 in the Union list and Entry 32 in the State list.

In addition, the Right to form cooperatives can also be construed as a Fundamental Right emanating out of Article 14 – (Right to Equality) and Article 19(1)(c) as ‘Right to form Associations or Unions’.

### *Second ARC recommended that:*

- a) **An Article should be added to Part-IV of the Constitution in the form of 43B where the State should be made responsible for making such laws that will ensure autonomous, democratic, member driven and professional cooperative institutions. In that case, a large scale Constitutional amendment on the pattern of Parts-IX and IX-A which was introduced by the 73rd and 74th Amendments, will not be necessary. The proposed Article 43B may read as follows:**

**Article 43B: Empowerment of Co-operatives:** “The State shall endeavour to secure by suitable legislation or economic organisation or any other way autonomous, democratic, member driven and professional cooperative institutions in different areas of economic activity particularly those relating to agriculture.”

- b) The Commission endorses the amendments suggested by the National Advisory Council and feels that this coupled with the amendment suggested in the Directive Principles would be a step in the right direction to make the cooperative institutions voluntary, democratic, professional, member-driven and member-centric enterprises. Accordingly, the following amendments may be made in the Constitution: i. Under Article 19, 19(1)(h) may be added as follows: “(h) to form and run cooperatives based on principles of voluntary and open membership, democratic member control, member economic participation, and autonomous functioning free from State control.” ii. Correspondingly, Article 19(4) should be amended as follows:

“(4) Nothing in sub-clauses (c) and (h) of the said clause shall affect the operation of any existing law in so far as it imposes, or prevents the State from making any law imposing, in the interests of [the sovereignty and integrity of India or] public order or morality, reasonable restrictions on the exercise of the right conferred by the said sub-clause”.

### *Legislative Framework*

The legislative environment and framework is one of the most important dimensions of cooperative reforms. It is strongly felt that the cooperative legislations prevalent in the country have been one the major factors behind the not so successful cooperative movement in India. Most of the laws governing cooperatives suffer from control and accountability related problems.

The Task Force on the Revival of Cooperative Credit Institutions in its Report (December, 2004) examined the enabling legislations for cooperatives in detail and suggested a Model Mutually Aided Cooperative Societies Act to be adopted by all the States. The salient features of the draft model law suggested by the Task Force are as under:

- a) The law is based on internationally accepted principles of cooperation and ensures that cooperatives function in a democratic manner.
- b) The model law is member-centric. It ensures that members are in control of their organisation, and that they can hold accountable those they elect. It places responsibilities on members, and it gives them the right to manage their own affairs, based on the responsibilities that they choose to fix for themselves.
- c) It places responsibilities on elected Directors in such a manner, that elected positions are positions of responsibility and not only of power and authority. Accountability of the Directors to the General Body is in-built, and any lapse is treated seriously. A Director's behaviour is expected to be reported to the General Body for its scrutiny.
- d) The Model Law makes it clear that cooperative societies are not the creatures of the State—nor are they statutory creatures. Membership in these societies is voluntary and therefore as in the case of Companies, Societies, Trade Unions, and unincorporated Associations, elections should be an internal affair of each organisation.
- e) For similar reasons, an Audit Board is not envisaged under this law. The General Body of each cooperative society will appoint an auditor, and the responsibilities of the auditor have been made explicit. Presentation of copies of the audited statements of accounts for the previous year, along with audit objections, to each member has been made compulsory.
- f) Recruitment of staff will be the responsibility of each cooperative society. Common cadres and recruitment boards are not envisaged. Just as other forms of citizens'-organisations (Companies, Societies, Trade Unions, unincorporated Associations) take responsibility for staff recruitment and personnel management, cooperative societies too should have the right to make all staff related decisions. Labour laws are expected to apply.



- g) Profit (surplus) and loss (deficit) are to be shared among members. Cooperatives are expected to be professionally managed in the truest sense of the phrase, as Directors have to face their General Body each year and recommend surplus/ deficit sharing to members.
- h) The law envisages creation of cooperative societies based on mutual aid and trust amongst members. While cooperative societies are permitted to accept member savings and deposits, and borrowings from others, they are not permitted to accept savings from non-members. In case a cooperative wishes to accept public (non-voting member) deposits, it will need to be licensed by the RBI and follow such other regulatory norms as prescribed by the RBI.
- i) The manner of recovery of dues from members is required to be in-built in the Articles of Association.

*Second ARC recommended that*

- a) **All States (other than Andhra Pradesh, Bihar, Jharkhand, Madhya Pradesh, Chhatisgarh, Orissa, Uttarakhand, Karnataka and Jammu and Kashmir) should immediately take steps to enact their own Mutually Aided / Self-Reliant Cooperative Societies Act on the pattern of the Model Law suggested by the Task Force on Revival of Cooperative Credit Institutions. The States where such Acts are already in existence should also examine the Model Law suggested by the Task Force and amendments in the existing legislations may be made, if so required.**
- b) **For the next few years, there is need to have parallel laws to deal separately with (i) the Mutually Aided / Self-Reliant cooperative societies formed under the recent enactments (post 1995), and (ii) societies formed under the old laws in which the government still has financial stakes. The societies referred at (ii) above should gradually be encouraged to clear off their liabilities and convert into Mutually Aided Societies.**

*Producer Companies*

Economic liberalisation has opened up co-operatives to global competition. When most of the Indian industries have been deregulated and de-licensed, it undoubtedly makes sense to put co-operatives on the same level playing field. One of the reasons why cooperatives have not been able to meet the needs of their members is because, by and large, they continue to be governed by restrictive cooperative laws. These laws allow little or no freedom to them to operate as autonomous business entities. The members of co-operatives in India, who are largely rural, are at a potential disadvantage given their generally limited assets, resources, education and access to advanced technology. In the present competitive scenario, if cooperative enterprises are to serve rural producers, they require an alternative to the present institutional form.

*Second ARC recommended that*

- a) **A new law regarding Producer Companies should be enacted on the basis of the following broad principles:**
  - i. **Producer Companies should be given a liberal charter of functions to take up any primary activity as per their technical and financial capability;**
  - ii. **The law should provide for flexibility in investment of funds, surpluses / reserves; iii. Depending on their functional requirement and financial strength, a Producer Company should have full flexibility in creating / abolishing executive and managerial posts; iv. The compliance requirements with regard to the Company's audit and accounts should be in tune with the size of its operations; and v. The law should have provision for proxy voting in order to facilitate smooth conduct of elections and general meetings.**
- b) **Co-operatives should be encouraged to incorporate themselves as Producer Companies under the existing provisions of Part IXA of**

the Companies Act, 1956 and subsequently under the new law, as and when enacted, as this would be a more viable option in the present environment. The existing inter-State cooperative societies may also explore the possibility of getting themselves converted into Producer Companies.

*Cooperative Credit and Banking Institutions*

Cooperative credit institutions came into existence as a mechanism for pooling of resources in rural areas and for providing easy credit access to the rural people. But in course of time their financial health has declined considerably. The primary reasons are (a) undue State interference and politicisation, and (b) poor quality of management. At present, these institutions are facing a host of problems such as - poor resource base, dependence on external funding, excessive State intrusion, multiplicity of control, huge accumulated losses, low recovery, lack of business initiatives and regional disparity.

*Second ARC recommended that*

- a) The process of implementation of the revival package for Short-Term Rural Cooperative Credit Structure (STCCS) formulated on the basis of the Vaidyanathan Committee Report should be completed immediately. It consists of the following major steps :
  - i. States which have so far not signed the MOU for this purpose should be asked to do so without further loss of time.
  - ii. The Banking Regulation Act, NABARD Act and the State Cooperative Societies Acts need to be suitably amended in order to improve the management/governance of cooperative credit institutions.
  - iii. A model Cooperative Law needs to be enacted by the States. States which do not wish to pass the Model Act, should introduce a separate chapter on Agricultural and Rural Credit Societies containing the salient provisions of the Model Law in their existing Cooperative legislation.
- b) Similar steps should be taken in a time-bound manner in respect of the recommendations of the same Committee on Long-Term Cooperative Credit Structure (LTCCS).

**Towards an Integrated Social Policy**

The people of India were fortunate to be guided in shaping their future by the principles enshrined in the Constitution of India by our founding fathers most of whom had been in the forefront of our freedom struggle

The following are some of the relevant and important Articles of the Directive Principles of State Policy impacting on the promotion of a just and fair socio-economic order:

**Article 38** – State to secure a social order for the promotion of welfare of the people.

**Article 39** – Certain principles of policy to be followed by the State

The State shall, in particular, direct its policy towards securing;

- a) That the citizens, men and women equally, have the right to an adequate means of livelihood;
- b) That the ownership and control of the material resources of the community are so distributed as best to subserve the common good;
- c) That the operation of the economic system does not result in the concentration of wealth and means of production to the common detriment.

- d) That there is equal pay for equal work for both men and women;
- e) That the health and strength of workers, men and women, and the tenders age of children are not abused and that citizens are not forced by economic necessity to enter avocations unsuited to their age or strength; and
- f) That children are given opportunities and facilities to develop in a healthy manner and in conditions of freedom and dignity and that childhood and youth are protected against exploitation and against moral and material abandonment.

**Article 41** – Right to work, to education and to public assistance in certain cases.

**Article 45** – Provision for free and compulsory education for children.

This Social Policy should interalia include the following elements:

- Political elements like affirmative action for the socially excluded, special institutional arrangements to give ladders to the ‘weaker sections’
- Economic elements, like
  - i. Right to work or an employment guarantee, or a protection of livelihoods.
  - ii. Also a clear priority focuses on the poorest of the poor, to be the first step for a development design.
  - iii. Adequate allocation of resources for social amenities including a national social insurance policy which protects the unemployed.
- Social elements like
  - i. Stronger laws for child rights, anti-dowry, domestic violence, atrocities against the oppressed etc.
  - ii. Social welfare provisions, amenities for child care services
  - iii. Take an over-view of all other policies, related to social sectors such as education, health, population, social welfare, water, decent ralisation and make an integrated commitment to transformation for social justice and economic fulfillment.

The overall success of such a composite social policy in a polity would primarily depend on three factors viz. (a) the governance system, (b) quality of Human Capital, and (c) strength of collective action and cooperative behaviour among citizens that leads to creation of effective civil society / social capital institutions.

*Second ARC recommended that*

- a) **Government should craft an integrated social policy which will ensure priority State action on the key issues relating to social justice and empowerment.**
- b) **Government should provide a significant portion of its plan allocation for implementation of this integrated social policy.**

**Conclusion**

People’s participation in governance is recognized the world over as a prerequisite of good governance. The growth and development of society is critically dependent on its internal institutions, particularly those created by people’s initiative and vigour. Some of these institutions are for non-profit, some for mutual

benefit of a group and some for raising income levels of their members. Collectively they play a major role in contributing to good governance and to economic and social development.

A State with strong democratic norms and traditions allows greater opportunity to social capital institutions to organise and activate people around many key areas of public activity such as welfare and delivery of services. It leads to formation of a polyarchic society.

The Report emphasizes the need to bring about 'attitudinal changes'. The Report also suggests direct involvement of people to increase openness and public sensitivity in functioning of these institutions. The Commission firmly believes that if the recommendations put forth in this Report are implemented, it will bring about far reaching changes in the working of the entire third sector. It will (a) bring charity organisations closer to public good, (b) improve conduct of professional practitioners, (c) lead to better governance of technical, management and other professional education institutions, (d) rejuvenate cooperatives, (e) strengthen rural credit structure, and (f) provide opportunities of skill enhancement to the poor and enable them to earn more. The overall impact will be the emergence of a healthy, vibrant and responsive civil society.

For many decades, these institutions have operated with considerable functional freedom. Many of the Professional Bodies have become politicized and have deviated from their original intent. A number of Societies and Trusts are perceived to have become pocket burroughs of a few who use them for their own benefits. The Cooperative sector across the country too stands in complete disarray. The Commission recognizes that people who are well entrenched in the current system will not readily agree to shedding their powers and privileges. What we need is an unwavering commitment to reform on the part of governments and an equally strong willingness on the part of civil society to work for these changes.

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