

Corruption and the Right to Participate

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The last few years have seen a spate of rights-related legislations related to information, employment, and education. But this package of laws is incomplete without a fundamental right to participate in decisions relating to development, welfare, and conservation. Such a right, and concomitant responsibilities, should be enshrined in the Constitution, and be enforceable through one or more laws.

Our democracy is still only skin deep. This is one of the many lessons we should have learnt from the differential way in which the government and media dealt with the two *babas* on fast earlier this year. This is a lesson with a crucial bearing on the ongoing churning that is taking place in India, on issues such as corruption, black money, land acquisition, and price rise.

Baba Ramdev, fasting on the issue of black money and corruption, captured the headlines and the attention of the highest decision-makers. Completely sidelined was Swami Nigamananda who was fasting on the issue of mining and stone crushing along the Ganga. The former, health rapidly declining after only a few days (as an aside, what sort of yogi is this?), was “persuaded” by several political and religious dignitaries to break his fast in nine days even though the government had not met his demands. The latter, refusing to break his fast till the mining was stopped, had no public attention, no government officials visiting him, no media scrambling over each other to get some bytes. He died virtually alone after 114 unbroken days of fasting. Ironically, in the same hospital where Ramdev broke his fast.

A number of issues stand out. First, we seem to be blind to or not as bothered about the various forms of corruption other than financial. Second, that a number of issues quietly but seriously affecting the “common” person due to these other forms of corruption are not yet on the political and media radar as they should be. Third, that unless we move towards a deeper and more participatory form of democracy, the ills plaguing us (including corruption) will not go away; setting up the Lokpal will help to some extent but not fundamentally. Let me take each of these issues.

Corruption is not only about financial irregularities intended for personal

enrichment. It comes in many other forms also: the abuse of power by those in decision-making positions, the use of personal relationships and influence to gain out-of-line favours, and so on. We have in India a pervasive corruption of political and bureaucratic power, enabling policies and decisions that benefit one class while undermining the basis of life and livelihoods of hundreds of millions of less powerful people. The forcible takeover of farmlands for industry or infrastructure, the selling of natural resources to the highest bidder mindless of the dependence of poor people on them, and the conversion of agricultural focus from food self-sufficiency for the rural poor to the consumer demands of the urban rich, are examples. The fact that it happens in the name of “development”, and that such development continues to be forced down our throats in the name of eradicating poverty, is symptomatic of the State’s double-speak, which, unfortunately, we have all become accustomed to accepting.

Tackling black money and financial corruption is essential. But unless this is complemented by fundamental ways in which our economy is governed, it will do little to put the majority of Indians on the path of true welfare. In fact, if all the black money stashed away abroad is rescued and put into the same hands that today control India’s economy, it may make things worse.

Do the Poor Still Count?

Such corrupted decision-making in Delhi and state capitals is often blind to what should be the twin imperatives of any economic system in India: providing rights and welfare to the poor to enhance their security and reduce inequities, and ensuring that all economic activities are ecologically sustainable so they benefit future generations too. Our economic policies seem to be going in the opposite direction.

Take Nigamananda’s campaign focus as an example. Indiscriminate mining (or its parallels in the form of polluting industrialisation and destructive mega-projects) is not confined to the banks of the Ganga, it is rampant across the country. And it is not only illegal; much of it is sanctioned and

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sanctified as part of today's development model. This model projects economic growth percentages as the ultimate test (leading to the race with China to reach double-digit growth figures), blind to the fact that there is no necessary positive correlation between this rate and improvement in the lot of the poor, and most certainly no positive correlation between it and ecological sustainability. A model imported blindly from the west, it has been with us since the 1960s, but its full manifestation has been in the last two decades. The year 2011 is the 20th anniversary of the economic "reforms" brought about when Manmohan Singh was finance minister under Narasimha Rao. The era of financial globalisation has rapidly changed India in many ways, and how one looks at these changes depends on where in the economic spectrum one is located. For the "upper" classes, the change has been celebratory, with access to wealth and global connections previously only dreamt of. For a few amongst the middle and "lower" classes, "trickle-down" has provided some benefits. For many other parts of the rest of India, however, it has at best been neutral, at worst disastrous.

Possibly the greatest casualty has been ecological sustainability. The rate of diversion of forestland for mining, industry, expressways, and the like has risen significantly. For instance, well over half the forest area diverted for non-forest use since 1980-81, has been in the period after 2001.¹ Exploitation of marine resources for export is taking many of our ocean areas to the brink of collapse, endangering not only biodiversity but also the livelihoods of several million fisher people. Widespread air and water pollution, and chemicals in food are affecting the health of tens of millions of people. The overall effects are not easy to quantify or describe, but a recent study by the Global Footprint Network and the Confederation of Indian Industry (2008) suggested that Indians are using almost twice of what the country's natural resources can sustain (or twice its "biocapacity"), and the capacity of nature to sustain Indians has declined sharply by almost half in the last four decades or so. Its economic trajectory has global implications too; India now has the world's third

largest ecological footprint (after the United States and China).

The social effects of globalised "development" have also been stark. Inequities amongst different classes are rising, one estimate suggesting that the wealthiest 10% of Indians now own 53% of the country's wealth, while the poorest 10% own only 0.2%. If the abysmally low indicator to determine the poverty line is corrected, between half to 80% of the population would be considered too poor to have adequate food, shelter, and clothing. In the 20 years of reforms, employment in the formal sector (which gets most of the investment) has remained virtually stagnant (from 26.7 million in 1981 to 27 million in 2006), a phenomenon called "jobless growth"; most of those who have since joined the ranks of the employable, have had to contend with poorly paid, insecure jobs in the informal economy. At the same time, environmental destruction and social displacement may have rendered millions unemployed (the government does not keep figures of this).²

These stark figures hide some of the most horrifying stories of hunger and thirst, suicides, deprivation, displacement, and other effects that any civilised society would categorise as "crimes against humanity". The callous treatment of "coarse" grains and pulses in agricultural and pricing policies has rendered the most nutritious foods out of reach of even those who may have earlier had access, paving the way for a future nutritional disaster of epic proportions.

Shallow Indian Democracy

One basic cause for the continuing malaise of governance in India, which allows such corrupted decision-making processes, is that those who have experienced a negative impact have hardly any say in this governance. We are proud of our relatively fair elections, as we should be. But how truly democratic is a system that gives us decision-making powers once in five years, to elect whom we choose, and then allows those we elect to do virtually what they want? The corruption of power and mindsets that allows an economic and political elite to take decisions that leave out half of India and undermine long-term environmental sustainability, can only be

checked if our democracy goes much deeper. If anything, this is a far more pervasive corruption to fight than financial.

In theory, as citizens we have a number of avenues to take part in decisions, e.g., at the level of the gram sabha or the urban ward. However, these are limited to a few local issues and there are hardly any effective measures to ensure participation in the key decisions regarding development, welfare, and other decisions taken by bureaucracies and politicians. A few communities have managed, through sheer mobilisation, to take over decision-making of all or most local matters, but this is more de facto than legally mandated, and, in any case, comprises as yet a minuscule number. For the most part, citizens are not only not encouraged to participate, they are actively excluded from the corridors of decision-making, as elected representatives and bureaucrats act more like masters than servers of the public.

Even those spaces that are available to citizens for participation are more often than not undermined by powerful local or outside interests, and hardly ever enforced by the government. For instance, public hearings at affected sites are mandatory for "development" projects that require environmental clearance. But in the vast majority of cases these have been organised in ways that favour the project proponents, and in any case the government or project proponents have no compulsion to take on board what people say at such hearings. In July 2009, the Ministry of Environment and Forests (MOEF) issued a circular mandating that gram sabha consent be sought by anyone wanting to divert forestland for non-forest uses (in recognition of the fact that the Forest Rights Act now recognises the rights of communities to use and manage forests they have traditionally depended on), but most projects given clearance by the MOEF have violated this stipulation.³ The proposed POSCO steel plant in Orissa is an example, as are recent clearances given to coal mining in Chhattisgarh.

Often in such cases, citizens find with a shock that the candidate they have voted to legislative assemblies or to Parliament, is not necessarily representing their voices. But they have to wait for the next election to make their voices effectively felt, since

Indian democracy gives the public no right to recall candidates.

The Right to Participate

As one key remedy for these ills, citizens need a right to participate in decisions affecting their daily lives, and the capacity to engage in them meaningfully and responsibly. One step (but only one amongst others) towards this would be a "Right to Participation Act".

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What would be the key elements of such legislation? Some that come to mind:

* Every citizen having the right to participate in decisions relating to governance, development, welfare, entitlements, environment, and other matters of public interest. This would mean much greater decision-making powers to local institutions (gram sabhas, urban area sabhas or wards, tribal village councils, etc), which have to involve the full adult population within their boundaries.

* Every citizen having the right to be consulted in, and his/her opinion and information to be part of the considerations for, decisions relating to the above-mentioned matters, including development plans, budgets, laws and policies, and other such measures. This would mean all government departments would have to conduct public consultations for decisions in their ambit.

* Making it mandatory for institutions at the "higher" level, including district and state, to do widespread consultations for policy-level and other key decisions taken by them, with every citizen having a right to be informed of and be able to question such decisions, through appropriate mechanisms. Clearly this cannot be for every decision; only those with policy and other aspects with a significant impact on the citizens of that area (a more specific list can be made), need go through such processes.

* Processes to enable and capacitate citizens to participate meaningfully, through proactive provision of information (taking forward the suo motu provisions of the Right to Information (RTI) Act), training and orientation sessions, and other means.

* Empowerment or sanctioning of customary methods of decision-making, ensuring that these are available to all citizens and are free of gender, caste, class, religious and other forms of discrimination.

* Right to take part in deciding candidates for elections (at various levels) through relevant party structures, and the right to recall elected representatives if sufficient number/part of the relevant population is dissatisfied with their performance, after permitting full opportunity to representatives to explain their conduct.

* Concomitant to all these rights, the responsibility and duty of engaging meaningfully in democratic processes.

* Introduction into educational institutions, of course content and strategies to create awareness about the rights and responsibilities of citizens, including, at appropriate levels, of relevant laws.

Links would need to be made between such legislation and the relevant existing policies and laws, such as the RTI Act, the panchayat laws, and others. Checks and balances would need to be built in to ensure against misuse and against indefinite stalling of decisions.

There are of course many aspects of this that need to be worked out, including how such a participatory process should not become a cause or excuse for delaying important decisions, exceptions for emergency decisions relating to public order, and so on. But these are matters of detail, the main issue is about the need to acknowledge and enshrine the principle of participatory, direct democracy.

The principle has been espoused by many scholars and activists in the past, across the broad spectrum of political ideologies. Neo-Marxist Markovic (1994) advocates "council democracy", with all citizens involved in decision-making at the level of their basic work unit or community, building into expanding "self-governing" bodies at various levels from local to global. Gandhi spoke of "oceanic circles" of decision-making, starting from the individual and

building up to a federal structure. Ecologist Morrison (1995) talks of "a series of nested and overlapping social and economic commons, ranging from the local to the global", and planning by "confederations and associations of community enterprises, institutions and local government" at "state, national, regional and international levels".

Radical Ecological Democracy

No law by itself can achieve major change. A Right to Participation Act will only succeed if it is linked to people's mobilisation, to a number of other policy measures, to active outreach and orientation of the public, and so on.

What is worth noting is that there are already a number of experiments towards such grass-roots democracy in India, most of them going well beyond what is legally available. Adivasi self-rule in parts of central India (e.g., Mendha-Lekha village, Maharashtra), agricultural swaraj in the Andhra villages where the Deccan Development Society is active, the Arvari Sansad (parliament) of 72 villages in Rajasthan, children's panchayats in Uttar Pradesh, Delhi, Karnataka and several other states, social audits of National Rural Employment Guarantee Act in Rajasthan and some other states are a few examples. Some states have policies and laws mandating such participation in health, education, natural resource management, and other matters, such as Nagaland's community policy. Many of these are pointing to the possibilities of a "radical ecological democracy", in which citizens have the power and capacity to engage in decisions

EPW Index

An author-title index for *EPW* has been prepared for the years from 1968 to 2010. The PDFs of the Index have been uploaded, year-wise, on the *EPW* web site. Visitors can download the Index for all the years from the site. (The Index for a few years is yet to be prepared and will be uploaded when ready.)

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affecting their lives, with sensitivity towards ecological sustainability and social equity. A Right to Participation Act would considerably strengthen such movements, as also enable them to spread through appropriate adaptation, to the majority of India where democracy so far is shallow and imperfect.

But it is only such a genuinely decentralised democracy that would ensure that decisions taken in state capitals or Delhi are based on what is emerging from grass-roots democratic processes. Then only can we check the abuse of power by those who listen more to the International

Monetary Fund, World Bank, powerful corporations, and the financial elite, than to the majority of Indians who desperately need meaningful development. And then perhaps, the various forms of corruption that plague India would be tackled.

NOTES

- 1 Data obtained from Ministry of Environment and Forests, in response to Right to Information applications filed by Kalpavriksh. There are however discrepancies in the data thus obtained (see analysis of this in Kohli et al (2010)).
- 2 These and other facts and figures appear, and are analysed, in Shrivastava and Kothari (in press).
- 3 See analysis in Government of India (2010).

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