Systemic Crisis in Governance:
A Way Forward

Shakti Sinha

Till a few years ago, the Indian elite had convinced itself that India was already seated at the high table of the international order, that there was something natural and given about India's rise. This acute sense of triumphalism was unmistakeable. India in 2007 had reason to be confident. It was growing fast and furious, had lifted hundreds of millions above the poverty line, and was being courted by leading economies and large investors and the India story seemed a perpetual best-seller.

The 2008 trans-Atlantic monetary crisis saw the rich countries go into economic decline whilst India recovered quickly and grew faster than before. The clear conviction was that India had decoupled itself from its economic partners in Europe and North America, and was itself an engine of global economic growth. The fact that China also grew faster than before convinced many that the West was in terminal decline and the future of Asian dominance had arrived. The hubris was not long in coming. Indian policy-makers did seem to have not taken notice of the fact that the high growth of Gross Domestic Product (GDP) post-2003 had resulted

Mr **Shakti Sinha** is former Principal Secretary (Power & Industry), Government of National Capital Territory of Delhi and former Chief Secretary, Andaman & Nicobar Administration.

This paper is extracted from a lecture delivered by the author at the 'Securing India' seminar held in January 2014 and another presentation at a national seminar on 'Crisis of Ethics, Accountability and Governance' organised by the India Policy Foundation in October 2013.

The fact that China also grew faster than before convinced many that the West was in terminal decline and the future of Asian dominance had arrived.

from (i) steps taken to free the economy in the recent past; (ii) unprecedented global liquidity, as eloquently described by Ruchir Sharma in "Breakout Nations"; and (iii) the extraordinary fiscal expansion since 2004. A number of fiscally unsustainable, but legally enforceable entitlement programmes were launched riding on the surge of revenues that increased the economic growth produced. Fiscal consolidation exercises were rolled back and there was a feeling in ruling circles that the new 'Hindu' rate of growth was nearer to 10 percent, a far cry from the 3.5 percent that the late economist Raj Krishna had determined. But obviously such high rates of economic growth could not continue indefinitely in the absence of substantial restructuring of the economy and improved governance that would make India an attractive investment destination, particularly for Indians.

Unfortunately, we do not seem to have learnt the right lessons from this recent history. Quite the contrary, governments across the country are either increasing the sops, what were famously called non-merit subsidies by P Chidambaram in an earlier *avatar* as Finance Minister in the United Front (UF) government. These measures are not only fiscally unsustainable but are also distortionary in nature. Other governments are trying to roll back successes in restructuring and in service delivery *a la* privatisation of electricity distribution in Delhi. These measures are doing long-term damage to both our growth prospects and the institutions of governance because successor governments, even those that come to power with sweeping majorities, find it difficult to roll back these 'populist' sops. Such retrograde steps seem almost deliberate, meant to hobble the ability of successor governments to initiate sensible policies.

And, of course, for the last few years, we also see constant references to what the then Finance Minister called policy paralysis. Actually, it is more a case of decision-making paralysis because even when policies are in place, there is an aversion to taking decisions because no one is sure as to what will happen and who would be made a scapegoat. The result of this economic slowdown and of decision-making paralysis is that reforms of the economy and of governance seem to have completely fallen off the agenda. The two terms are closely linked in terms of both causation and correlation. The Nobel Prize winning economist Douglas North has highlighted the importance of institutions in economic life but substantial public discourse in the period of heady growth was that economic growth in India had become an autonomous process and that the government of the day was irrelevant to the process. Interestingly, but without any hint of irony, the same commentators are today wringing their hands about the government's paralysis and missteps.

The trouble with reforms, any reforms and not just political, legal or economic, is that there is hardly anybody who is ready to be their proponent. The reasons are obvious; the losers are few but are concentrated and highly vocal while those who gain are many but dispersed, and the gains accrue incrementally. Politically, they are often seen as suicidal, and examples of the fate of the governments of PV Narasimha Rao and of Chandababu Naidu are cited in support of this thesis. The result is that when times are bad and reforms are needed, the political leadership feels that it cannot afford the price of pushing changes. And when the going is good, when the rising tide is lifting all boats, there is no pressure to make the necessary course corrections.

But a case must be made for them lest we see India get trapped in a low-level equilibrium cycle with anaemic growth that creates low employment and leaves the poor struggling for survival rather than aspiring for an improved quality of life. Unfortunately, our approach to the whole range of issues is still stuck in what can be referred to as the public administration mindset. Essentially that government administers, government knows best, government decides and, therefore, government does development.

The rest of the world has progressed to public policy and governance. The change is much more than semantic.

The citizens have no role except as recipients and once in five years, as voters.

The rest of the world has progressed to public policy and governance. The change is much more than semantic. It is a question of mindset. In the new framework, the citizen is at the centre of the scheme of things, a participant, not a mere passive recipient. There is a move from rigid structures and simplistic formulas to more flexible and open systems that allow for local adaptation, not blind adoption. The focus is on accountability and outcomes and not on meeting expenditure targets. Policies and institutions cannot remain immune to societal and technological changes.

It is often said that the problem with India's economic governance is that while our policies are generally good, implementation is sub-standard, except in emergencies as we saw in the successful evacuation of half a million people in Odisha at the time of Cyclone Phalin. That we need much better implementation is beyond controversy and Gujarat is often cited as an example of what clear decision-making and accountability can deliver. But to accept that our policies, especially those pushed down in the name of vote bank politics are intrinsically good would be stretching the definition of 'good' to absurd limits.

It is clear that our development perspective must go beyond doles, and it is this wrong approach that is the focus of the first part of this piece. Three specific recent initiatives of the Government of India as well as a continuing one will be tested against the accepted norms of good policy. These norms include identification of the problem that the new policy seeks to address, development of different options with their pros and cons based on empirical data, extensive stakeholder consultation, testing pilots and then large scale adoption after preparing systems to take on this additional responsibility.

Policies and institutions cannot remain immune to societal and technological changes.

Let us first see the logic and rationale for the Mahatma National Rural Employment Guarantee Act (MNREGA). MNREGA guarantees 100 days of employment at minimum wages to one adult member per household per year. It is based on a pioneering Maharashtra initiative called Employment Guarantee Scheme that was first implemented almost 40 years ago. Essentially, it sought to drought-proof villages in the rain shadow areas of the state by building up assets like water harvesting, rural roads, etc. Persons seeking employment were guaranteed wage labour for such public works but at below market clearing wages. The vision was clear that this scheme should not draw people away from productive employment in agriculture or otherwise, and its wage level would ensure the beneficiaries were genuine, with self-selection weeding out the non-poor.

These safety features have been done away with in MNREGA, whose wages comprise the legal minimum wage and where the guarantee became a legal entitlement. Anecdotal evidence suggests a shortage of agricultural labour and craftsmen in different parts of the country. On the other hand, the scheme could provide jobs for an average of 43 days in 2011-12, a fall from 54 days in 2009-10. This, in fact, raises the issue of whether, in fact, there was a need for such a scheme whose fiscal impact (Rs 37,000 crore in 2012-13 and rising) on the national budget is so huge. Could it be that at the margin, the demand for supplemental employment was limited since surplus labour prefers migration to urban India where wages are higher? Or that it would be preferable to move people to where the jobs are, rather than the other way around? Unfortunately, we still do not have detailed evaluation studies that can tell us MNREGA's efficacy. To advocate paying less than minimum wage is to open one to the charge of being a neo-liberal and anti-poor but one must understand the logic behind the scheme and not be swayed by fads and populism.

Should the governments not look at making schools accountable to the local communities and to partnering with the private schools so that the powerless may be empowered?

The second scheme that should be critically examined is the Right to Education (RTE) Act. Universal schooling should be the right of all children. But here again the problem seems to be incorrectly diagnosed, as being purely a supply one, which was sought to be set right by pouring additional resources into government schools. Pratham's latest Annual Status of Education Report (ASER) tragically reports that the 'aser' of all this doubling of flow of central government resources is that learning outcomes have fallen consistently. This is despite the improved infrastructure, more and better trained teachers, facilities, etc. Just around 41.1 percent of Class 5 children in government schools can handle Class 2 textbooks (2013). The comparable figures for 2009 are 50.3, and for 2011, 43.8. On the other hand, the performance of small teaching shops masquerading as public schools and patronised by the poor and near-poor is far better. The teachers are less qualified, paid less and the schools have much poorer infrastructure than government schools. But these are the only place where the poor are learning and the costs per student are much lower than in government run schools. Yet under RTE, such schools are mandated to be shut down.

It cannot be that governments are unaware that government schools were unresponsive and were consequently not able to attract and retain first generation learners. The issue is the lack of accountability of large public systems to the local communities, especially to the socially and economically disadvantaged children. Should the governments not look at making schools accountable to the local communities and to partnering with the private schools so that the powerless may be empowered? Instead, it doubles budgetary outlays and outlaws the very schools that deliver.

Meanwhile, in rural India, the people are voting with their wallets, resulting in the share of enrolment in private schools having gone up from 18 percent in 2006 to 29 percent at present; in urban areas, a majority is already in private schools. The system has clearly let down the citizen.

Proper sanitation and clean water are the major contributors towards improved nutrition levels, yet even in the most prosperous part of the country (Delhi), over half of the slum dwellers do not have access to piped water or toilets at home.

The third United Progressive Alliance (UPA) initiative that needs proper scrutiny is the Right to Food Act, which statutorily lays down the heavily subsidised price at which food grains will be issued. Hunger and malnutrition are both intolerable but is the present approach the right one? One, these are two separate issues and we must know what we are targeting. Hunger is almost history and less than one percent suffer from it. The National Sample Survey Organisation has stopped asking people about it for more than a decade. Malnutrition is an issue and India is a rare country where people in the top 20 percent income-wise can be victims. Countries in Africa with lower income levels have much lower levels of malnutrition than India's. The question is, why is this happening? Eating more cereals and less vegetables, fruits and meats is part of the answer. Proper sanitation and clean water are the major contributors towards improved nutrition levels, yet even in the most prosperous part of the country (Delhi), over half of the slum dwellers do not have access to piped water or toilets at home. The effects of open defecation go beyond the individual and community; the prevalence of gastroenteritis is proof of how even the better-off cannot escape its effects.

Politicians like Narendra Modi and Jairam Ramesh were correct to highlight the need for an end to open defecation. Yet, political parties across the spectrum not only supported the Right to Food Act but many criticised it for not going far enough. Its full year implementation would cost the exchequer Rs 3,15,000 crore, and it will be implemented through the rightly much maligned Public Distribution System (PDS). The Planning Commission itself estimates that leakages from PDS are in excess of 50 percent. Instead of looking at alternate modes of delivery, if at all required, the PDS is rewarded by asking it to deliver on a much bigger scale, even as the initiative will do nothing to solve our malnutrition crisis.

In Delhi, one cannot help but comment on the government's failure to address the power issue. Delhi buys power from generating stations across the country, all government owned. The actual cost of landed power has gone up from around Rs 1.75 per unit in 2003 when distribution was privatised to Rs 5.45 per unit at present. Can we blame the National Thermal Power Corporation (NTPC) et al for this increase? Hardly, since their efficiencies have improved. The key issue is the price of coal, effectively in the last three years alone, which has doubled, and power plants consume close to 80 percent of all coal mined in the country. In addition to pricing issues, the country suffers from a serious shortage of coal firing power generators. Coal India's monopolist policies led the Competition Commission to impose a whopping penalty of Rs 1,773 crore in the one case where it has completed its enquiries; other cases are pending. But instead of questioning whether government monopoly in coal mining is a good idea, the government prefers to tackle it through non-transparent allocation of captive mines, an example of its preference for crony capitalism. In any case, captive production is highly unlikely to free the coal market from the present day distortions. Should we not think of repealing the Coal Nationalisation Act and of opening the sector to competitive bidding, with the government acting as policy-maker and not service provider?

Before concluding this section on the efficacy of government policies, reference to a few other examples would be in order. The then Human Resources Minister announced the introduction of reservation for

Other Backward Castes in higher education. Since this would squeeze the existing seats for general candidates, the government announced a proportionate increase in total seats in higher education. Without going into the merit of having such reservation, the government had made no effort to assess whether the existing institutions had either the physical or human resource capacity to absorb 22 percent more entrants with immediate effect. Similarly, the minister announced the establishment of 8 new Indian Institutes of Technology (IITs), giving them one week to start enrolling students and begin functioning. Questions of preparedness did not seem to have bothered anybody. Even the highly acclaimed Delhi Metro did not come up as a result of a conscious comprehensive urban mobility policy—consequently, it is carrying far less traffic than what was promised. Similarly, the Golden Quadrilateral project, while being immensely successful in what it set out to do, was launched more on a hunch than any solid, analytical preparatory work. The 1999 telecom policy was a rare case of policy formulation and adoption following the normative framework. Not unexpectedly, its contribution to economic growth and to empowering the voiceless through personal communications and more through better economic opportunities is a tribute to what can be achieved if policies are made as they should be.

But it is not that the government does not believe in studying problems and issues. Almost ritually, committees are formed, often with the moniker 'high powered'. Their voluminous reports and recommendations are dutifully examined and 'action taken reports' are prepared. Then they are either given a safe burial or a separate committee is formed to look into the feasibility of implementing their recommendations. Sometimes, the government, to demonstrate the seriousness of its intent forms 'empowered committees' but the net effect is the same. And then, years later, another committee is appointed to look into the same issues. And, of course, we believe that all knowledge and wisdom either lies within the government or can be located in some select notables, who have either

Instead of having a problem-solving approach, the governments focussed on increasing budgetary flows as the remedy in each case, as if money would solve all problems.

been members or chairpersons of all sorts of committees on all kinds of subjects. For many such 'wise men', retirement is merely a statistical artifice, not to be confused with even a comma, leave alone a full-stop that would let others sort out the mess they have left behind.

These policies are just examples and the more one studies them, the more convincing is the argument for a fresh look at policies, especially economic policies. Instead of having a problem-solving approach, the governments focussed on increasing budgetary flows as the remedy in each case, as if money would solve all problems. That is, of course, the charitable explanation. The cynical would say that the 'solution' adopted just uses the problems to be addressed as an excuse for creating opportunities for increased corruption on an even larger scale, the problem itself bypassed in the bargain, with the citizen left in the lurch.

Moving on to governance and the crisis it faces, the key issue is accountability or the lack of it. Institutional design about the structure of governance institutions flows from accountability, not the other way round. You cannot build effective accountability into a system ex-post, which is why our anti-corruption efforts have yielded such poor results despite outstanding civil servants who have served as Central Vigilance Commissioners and in various anti-corruption outfits, including the Central Bureau of Investigation (CBI).

It needs to be questioned why accountability in the government remains so low? At the same time, we do see outstanding work done by many different individuals but the motivation is purely within, not institutional. These people are either self-driven or are guided by a higher moral calling that pushes them to perform, to take risks. But they are the exceptions and not the norm, otherwise we would not see governments performing at the levels that they do. It is best to explain accountability with examples from our day to day life. Let us take the case of a customer's interaction with a vegetable vendor, washerman, grocer, etc. If the service is not up to her liking, she votes with her wallet and takes her business elsewhere. When it comes to services like the PDS, it gets more complicated as the chain of responsibility and accountability is long. And it gets infinitely more complicated when it comes to assessing the suitability or effectiveness of a teacher or a doctor because of the problems of setting norms, carrying out evaluation and measurement of effectiveness.

Moving on to governance and the crisis it faces, the key issue is accountability or the lack of it. Institutional design about the structure of governance institutions flows from accountability, not the other way around.

How does the government fit into the scheme of things, basically in public service delivery? Insofar as the production of goods is concerned, there is general acceptance that the government should not be involved though we still have a considerable public sector presence in India. When it comes to accountability in the delivery of services, we see two types of confusion, namely, that of roles and of jurisdictions. To take up roles first, we still see considerable confusion and a dogged refusal to allow clarity. On one side is the client or user, and on the other, is the service provider. We need both policy and regulation besides actual service delivery. The government is often all three; (i) the policy-maker; (ii) the regulator to enforce the policy and protect public interest; and (iii) the service provider.

In education, the government is definitely all three at the school level and even so in higher education, with bodies like the University Greats Comission (UGC), All India Council for Technical Education (AICTE) and National Council for Teacher Education (NCTE) functioning as extensions of the executive. Sometimes, it does seem that such bodies have been created to mop up rents more effectively rather than act as classical regulators. What is problematic is that in such situations, who is to judge whether the user is getting the level and quality of service mandated? This becomes worse when the service provider is a monopoly, like in energy and water supply. The net effect is that the citizen feels she is denied her due, that justice eludes her. Artificially cheap prices may not be in the best interest of the consumer because they will lead to supply dislocations and shortages.

The next issue that needs clarity is the determination of levels at which such activities are best performed. Here we can be guided by Mahatma Gandhi's emphasis on Gram Swarajya. Building on it, two concepts emerge, namely, that the people at the grassroots must be at the centre of our plans and policies; and two, that actions and decisions must be taken locally, however defined. The European Union has adopted the principles of subsidiarity quite effectively. It means taking decisions and supplying services at the lowest level appropriate to the situation, so that accountability to the user is ensured. To go back to the education example cited above, drawing up of curriculum, writing and printing text-books, laying down standards of teaching and learning are certain activities best done centrally. The activities that should be done below state levels are the training of teachers, hiring process of teachers, purchase and distribution of books. What should be done locally? These tasks would include the construction of school buildings, managing schools, carrying out social audits of schools, organising community support, actually issuing employment contracts to teachers who would become employees of that particular school instead of being a part of a state-wide cadre of teachers.

Such exercises can and should be done across all sectors. And these have to be dynamic exercises, not one-time affairs. Technology changes often leave us flat-footed. But since we have muddled both the roles the state has to play and the levels at which different roles must be exercised, the result is sub-optimal achievements, to the detriment of the citizen, who feels left out. The indefensible case of falling learning outcomes despite budgetary increases has been referred to. Sadly, we have collectively failed to analyse why such large public systems are failing the people of India, and not linking such sub-optimal performance to arising as a direct consequence of the lack of systemic accountability to the users, particularly the poor.

The third issue that needs to be sorted out is jurisdictional confusion and overlaps. To give a specific example, there are 19 different agencies responsible for street lights in Delhi; sometimes, one entity looks after the lights on the road and there is a different one for the elevated portion running on it. Such jurisdictional nightmares are not uncommon. In urban governance, all metros have, besides autonomous municipal bodies, development authorities which are state government agencies. Of Delhi's five municipal bodies, the three municipal corporations that initially constituted the Municipal Corporation of Delhi (MCD) are part of the Delhi government structure though functionally autonomous. One municipal body, the New Delhi Municipal Corporation, reports to the Ministry of Home Affairs and not directly to the citizens or even to the Delhi government. The fifth (Cantonment Board), similarly, reports to the Ministry of Defence. However, land use, acquisition and planned development of lands is with the Delhi Development Authority(DDA) which is under the Ministry of Urban Development. The Delhi Jal Board, responsible for water supply and sewerage, but not sanitation, is an autonomous commercial entity that is part of the Delhi government. The Delhi Police is part of the Ministry of Home Affairs. Both the DDA and Delhi Police report to the Government of India through the Lieutenent Governor, keeping the elected Delhi government completely out of the loop. Earlier, power supply was done by a Ministry of Power entity and Delhi Transport Corporation reported to the Ministry of Power. The

Participation cannot be a one-off exercise, but, a continuous one where the governance system is accountable to the people in multiple ways and at multiple levels.

net effect is that the citizen feels alienated from most parts of the governance system which is accountable to her in a very roundabout manner. This is true not just for Delhi. The average citizen does not feel that the system is either giving her the dues she is entitled to or allowing her to develop her capabilities in the way she desires.

Examples such as these can be found all over the country. The issue is, why is this so, particularly the fascination for large public systems for which the end user or citizen is almost an after-thought? Why do we confuse the roles of policy-maker, regulator and actual service provider? And why do we create bodies with overlapping jurisdictions, particularly government agencies that undercut elected local governance entities? The unequivocal conclusion is that the political and bureaucratic elite does not want to delegate, downsize or build partnerships with citizens/community-based organisations/ private sector. On the contrary, at the slightest opportunity, we centralise, or put the subject in the concurrent list, or the state governments create parallel bodies to undermine local bodies. The answer possibly lies in Lord Acton's famous dictum, "… power corrupts, absolute power corrupts absolutely."

This is very much in line with what economics teaches us, namely, that monopolies are bad news for the consumers. And political science teaches us that government monopolies are the worst as there is nobody to whom the citizen can appeal when she finds that she is being short-charged. Sub-optimal performance is not the monopoly of the executive, it extends to institutions across the spectrum. On the one hand, people's faith in the higher judiciary remains high, and they have generally come to the rescue of the citizen when the executive have failed her, but on the other, delays and opaqueness in the disposal of cases means that for most litigants, it is a case of justice denied. The sheer quantum of backlog of cases is so staggering that economists estimate that India loses around 0.5 percent a year in lost growth. This is not just a deterrent to investment but also places the socially and economically disadvantaged in a weak position whenever they have a dispute. This is hardly conducive to good citizenship.

In conclusion, one can see why citizens belonging to different socio-economic strata feel alienated from the system, which does not fulfil their needs and aspirations. They not only feel excluded but specifically denied their due even as the elite have captured all the benefits. While this is not the full picture, what is important is how people perceive reality. Ultimately, the citizen should feel that she is in control over her life, which she is not, being manipulated. Participation cannot be a one-off exercise—it is a continuous one where the governance system is accountable to the people in multiple ways and at multiple levels. An engaged citizen who feels that justice is being done to her and her concerns makes for a secure, stable and prosperous India.