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Engaging with civil society: the democratic perspective

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Introduction

At the turn of the twenty first century, in India, civil society organisations came together in a number of campaigns, each of which had a very specific focus: assuring the provision of social goods to the citizens of India. India is considered to be the world's largest democracy. India is also projected to occupy the slot of a major power in the not so distant future. It is estimated that the growth rate of 8 to 9 percent of the GDP will quickly outstrip the growth rate of the other projected major power, China. Yet poverty, disease, malnutrition, illiteracy, and homelessness continue to stalk the lives of millions of citizens¹. It is this particular contradiction that has been fore-grounded by civil society campaigns since the late 1990s. This paper charts out the course of five such campaigns. It also analyses the implications of contemporary forms of civil society activism for democracy.

How we evaluate civil society activism, arguably depends on what exactly is it that we expect of democracy. Is democracy only about providing the pre-requisites of living a life that we recognise as distinctively human, such as income, food, shelter, education and health? Or is democracy about something else as well, empowering ordinary citizens to speak back to a history which is not of their making, for instance? And do contemporary forms of civil society activism promote this end as well? It is these precise questions that this essay addresses. The argument proceeds in three parts. In the first section, I chart out some of the major campaigns that have raised issues, which are of some significance for everyday life. In the second part I analyse the context of these campaigns, focus on their objectives and strategies, and evaluate these campaigns against a conception of democracy. In the third section I try to suggest what needs to be done to transform the disjuncture between democracy and representation into a conjuncture.

¹ Not only do a quarter of the world's poor live in India, the number of illiterates; school drop-outs; people suffering from communicable diseases; and infant, child and maternal deaths amount to a staggering proportion of respective world totals.

Let me add that to engage with, and criticise certain forms of civil society activism, is not to say that we would do better without these forms of activism. Civil society activism has given citizens legitimate reasons to believe that their world can be made less oppressive, less exploitative, and less horrid. We however need to keep in mind that the larger objective of democracy is to enable citizens to participate in decisions that affect their collective and individual lives. Or that democracy is about creating the conditions that allow human beings to make their own histories, even if the histories they make are not the histories they chose to make. What then is the relationship between contemporary forms of civil society activism and the realisation of these wider objectives of democracy? Let us see.

The Campaign for the Right to Food

Since the beginning of this century right up to the middle of 2006, the country's stocks of food grains amounting to 58 million tonnes in 2001, and 48.2 million tonnes in 2002-03, were far in excess of the normal buffer norms of food security of 25 million tonnes². It was estimated that the Government of India was spending huge amounts of money in stocking surplus food grains. And yet in the same period, reports of starvation deaths, hunger, and generalised malnutrition regularly made an appearance on the front pages of newspapers³. Rising food prices, combined with the inability of the poor to buy food, led to tremendous food insecurity in India. The UN Special Rapporteur on the right to food presented a report on the extent of chronic hunger and malnutrition in India to the UN Human Rights Commission on 22 September 2006. The report stated that over half of the women and children in the country suffer from serious malnourishment and chronic under-nourishment; that 47 percent of children are underweight, and that 46 percent of children suffer from stunted growth⁴. These figures happen to be higher than those in the poverty stricken countries of Sub-Saharan Africa.

Earlier the National Nutrition Monitoring Bureau had reported that though the percentage of children affected by malnutrition declined from 56.2 percent in 1990-91, to 47.7 percent in 2000-01, nearly half of the children in the rural areas continue to be malnourished⁵. Malnutrition has been identified as the one of the highest causes of infant mortality. The extent of malnourishment among adults, particularly pregnant women and lactating mothers, is no better. Health, which is at one and the same time a prime indicator of a society's wellbeing, as well of its commitment to human development, is crucially dependent on access to food

² Since then the food stocks have dwindled because of a number of reasons: low producer prices, higher prices of inputs, and the generalized crisis in Indian agriculture.

³ There is a fine line of distinction between hunger and malnutrition, whereas the former can be assuaged by the consumption of cereals, the latter requires also non-cereal foods, safe drinking water, and sanitation.

⁴ *The Hindu*, 24 September 2006, pg 1

⁵ R. Radhakrishnan, 2002. "Food and Nutrition Security" in Kirit Parikh and R Radhakrishnan ed *India Development Report*, Oxford University Press, Delhi, p 51

and nutrition. But the Government of India preferred that its overflowing food stocks rotted in the storage bins, and were nibbled at by rodents, even as chronic food insecurity relentlessly continues to stalk millions of people in the country.

It is not as if the government is not cognisant of the inability of the poorer sections of society to access food because they lack purchasing power. After the food grain shortages of the 1960s, the Government instituted a Public Distribution System [PDS]. This was converted into a targeted system in the 1990s, providing below poverty line [BPL] families with food grains at subsidized rates through a network of Fair Price Shops. The PDS as the main safety net is meant to protect the poor from the rising prices of food grains. According to the Ministry of Food and Civil Supplies, the food subsidy has jumped from Rs 2.45 million in 1990-91 to Rs 25.16 million in 2003-04⁶.

And yet the poor cannot afford to buy food even at subsidised rates. Food grain production in India went up to 195 million tonnes in 2000-01, to decline slightly to 174.19 million tonnes in 2003-04 and thereon, but the growth rate in the availability of food grains per capita has increasingly dwindled. The inability of the poor to buy food, combined with an inefficient, arbitrary, and corrupt PDS which (a) fails to identify families below the poverty line which are entitled to lift food under the scheme and (b) diverts food meant for BPL families to the open market, has been exacerbated by weak monitoring, lack of accountability, and failure of State governments to pick up the quota of food grains allotted for them from the central reserve stocks. All these factors coalesced to give rise to an age of hunger in India. They also coalesced to give rise to the campaign for the right to food.

In 2001 the Rajasthan-based Akal Sangarsh Samiti, an all-state network of 60 grassroots organisations, launched a sit-in in Jaipur, the capital of Rajasthan. The immediate provocation for the sit-in was the inability/unwillingness of the

⁶ *The Hindu* September 18 2004, p 1

State government to redress unfavourable conditions caused by severe drought in the state. The State government on plea of lack of funds, vacillated on the issue of continuing relief works beyond the minimum period, violating in the process its own 1962 famine code; on the issue of picking up the full quota of food grains that had been allotted to it from the central pool; and on the issue of expanding the constituency for PDS. On April 16 2001, the People's Union for Civil Liberties [PUCL] Rajasthan submitted a writ petition to the Supreme Court of India, citing the Government of India, the Food Corporation of India, and six State Governments as respondents. The list of respondents was enlarged in time to cover the governments of all States and Union Territories, and the issues raised by the writ petition-the provision of relief works during drought, and the utilisation of surplus food stocks to feed starving people, were expanded to that of chronic hunger⁷.

The writ petition raised a number of both specific and generic issues.

Given the rising prices of food grains in the 1990s, the poorer sections were unable to buy food. Therefore, institutional arrangements to deliver food to BPL families and destitute people needed to be strengthened, the implementation of various schemes monitored, and the administration of the schemes made accountable.

The purchasing power of the people needed to be expanded through the institutionalisation of various income-generating schemes, so that in time people could achieve some level of self-sufficiency and be emancipated from the stranglehold of absolute deprivation as well as from dependence on the state.

- The state had a large role to play in not only designing but also implementing, strengthening, and monitoring various schemes that relate to

⁷*Legal Action For The Right To Food: Supreme Court Orders and Related Documents*, 2004, PUCL vs Union of India and others, 2004, Writ Petition (Civil) 196 of 2001, Support Group of the Right to Food, Mumbai.

the provision of food. In effect, the writ petition reinstated the state firmly at the centre of social provisioning.

- The writ petition strongly argued that the right to food supervenes upon the right to life guaranteed by the Indian Constitution vide article 21.

The issues raised by the writ petition were serious enough to warrant an interventionist stance by the Supreme Court of India. The Court ruled on July 23 2001 that it was of the utmost importance that food should be provided to vulnerable sections of society. 'In case of famine, there may be shortage of food' stated the Court uncompromisingly, 'but here the situation is that amongst plenty there is scarcity....distribution of the same amongst the very poor and the destitute is scarce and non-existent leading to mal-nourishment, starvation and other related problems'⁸. In a series of interim orders, the Court directed the Central and State governments to ensure that hardship was reduced through the provision of food, and that various modalities that assure this be strengthened.

The public hearings held by the Court bred two consequences: firstly, they gave rise to the campaign for the right to food, which is an informal alliance of organisations and individuals committed to the right to be free from hunger and from under-nourishment. Secondly, as a result of the considerable attention drawn by public hearings, the Prime Minister announced on 15 August 2001 that his government would initiate a massive programme of employment generation via the *Sampoorna Grameen Rozgar Yojana* or the Comprehensive Rural Employment Scheme. This was followed by a Central Government order streamlining the PDS. Several State governments conforming to the orders of the Supreme Court introduced midday meals in primary schools, and updated and improved other food related programmes.

On 28 November 2001, the Court passed an interim order on the working of eight nutrition related programmes to ensure the provision of nutrition to BPL and

⁸ Ibid p 2.

destitute families, school going children, infants in the age group 0-6, pregnant women and lactating mothers, in accordance with the standards laid down by the Indian Council of Medical Research. Concurrently, the Court ordered the state and the central governments to make certain that various institutional arrangements to deliver food to target groups were fortified, and the programmes themselves implemented.

Several achievements can be credited to the campaign for the right to food⁹. Firstly, as a result of Court orders, most State governments have introduced midday meals in Government and Government aided schools¹⁰. The scheme had originally been introduced in 1985 by the Ministry of Human Resources, but like many other schemes it had been languishing, save in a few states. The campaign has been successful in extending the scheme to children studying in Class X in some states. It is also a measure of the success of the campaign that in September 2004, the Planning Commission allotted an additional Rs 1.2 million to the midday meal programme. The programme has been transferred to State governments who will be given an annual grant to keep the programme running. In October 2004 the Union Cabinet cleared the scheme. Secondly, the Supreme Court has set in place mechanisms that monitor the implementation of various food and nutrition related schemes of the Government of India. It has appointed food commissioners who are responsible to the Court. On numerous occasions the Court has admonished State governments and the Central government for failure to discharge their obligations. This has been buttressed by the public hearings held by the campaign for food rights, which highlights corruption and mismanagement in matters relating to identification of BPL families, functioning of ration shops, diversion of food grains to the open market, and the complicity of local administrators, politicians, owners of ration shops, and contractors in denying poor people access to food. In short,

⁹ For instance the Bharat Gyan Vigyan Samiti declared April 9 2002 as a 'National' day of action on midday meals. This achieved some success in building public opinion on the issue, and also provided an occasion to bring together various organisations interested in the issue.

¹⁰ Tamil Nadu, Karnataka, Kerala and Gujarat have run the midday meal scheme with some efficiency. Andhra Pradesh has extended the scheme to school holidays. Whereas the scheme in Delhi and Maharashtra is marked by poor implementation, Bihar, Assam and Uttar Pradesh have defaulted.

mechanisms that institutionalise accountability of social policy initiatives have been set in place.

Thirdly, the Court, by repeatedly stating that the right to food directly emanates from article 21 of the Constitution of India which protects the right to life, and from article 47 of the Directive Principles of State Policy which *inter alia* provides that the State shall regard the raising of the level of nutrition and the standard of living of its people, and the improvement of public health, as among its primary duties, has accorded legal backing to the right to food. Fourthly, the campaign for food rights has secured the implementation of food-for-work programmes. The issue had been put onto the agenda of the Common Minimum Programme [CMP], enacted by the United Progressive Alliance [UPA] which, led by the Congress Party, is currently in power at the Centre. In September 2004, the Planning Commission approved the launching of an Rs 2.20 million food-for-work programme in 150 districts that have been affected adversely by hunger¹¹. These are significant developments, considering that thousands of families have been denied the basic right to food, which is an essential precondition for the right to life.

¹¹ *The Hindu* September 10 2004, p 1

The Campaign for the Right to Employment

The campaign for the right to food realised fairly early on that a meaningful realisation of the right requires as a pre-requisite, a guarantee of the right to work. The demand for this right, [as distinct from the demand for food-for-work programmes], has not raised a new entitlement onto policy agendas. Various employment generating schemes have existed in various part of the country for long. The *Sampoorna Gramin Rozgar Yojana* that was announced by the P.M on Independence Day 2001 merged two existing schemes; the Employment Assurance Scheme and the *Jawahar Rozgar Scheme*. Maharashtra had after one of the worst droughts in the state in 1972, introduced the Employment Guarantee Scheme for rural areas, and C class municipal councils, vide an Act in 1977. This Act came into operation in 1979. In Maharashtra, the right to work, meant to provide the poorest sections of society with some security, guarantees employment for a minimum period, each year. The focus is to create durable community assets through infrastructure development. The scheme is funded by the Employment Guarantee Fund, into which proceeds of various taxes are deposited; with the state government making a contribution equal to the deposited taxes¹².

Assessments hold that though the scheme has been characterised by uneven implementation, non-durability of built assets, mismanagement and corruption, it has nevertheless generated some significant results. For one, hitherto unorganised and casual labour has unionised, and demanded the stipulated minimum wage, as well as better implementation of projects. Secondly, though the scheme may not have reduced overall poverty, it has worked well for the poorest of the poor. It is this model that is generalised by the Employment Guarantee Act. Because it has worked well for the poorest of the poor

¹² See *Policy Briefs: Inter-Regional Inequality, The Maharashtra Employment Guarantee Scheme* <http://www.odi.org.uk> pg 1, accessed on 12 July 07

On 8 May 2002 the Supreme Court had, during the public hearing on the writ petition filed by PUCL Rajasthan, ruled that village self-government bodies shall frame employment generation proposals in accordance with the *Sampoorna Gramin Rozgar Yojana*. Employment, ruled the Court, should be provided on public works such as soil and water conservation, afforestation, building of roads, rainwater harvesting, irrigation, treatment of catchment areas, in short for the generation of useful community assets. The scheme should be targeted towards agricultural wage-earners, non-agricultural unskilled wage-earners, marginal farmers, persons belonging to the Scheduled Castes and Tribes, and women¹³.

In 2004, the coalition in power at the central government, which is led by the Congress party, committed in the 'Common Minimum Programme' that the government would enact a National Employment Guarantee Act. The Right to Food campaign at its Bhopal Convention in June 2004 and at its Delhi convention in August of the same year, decided to press the government to deliver on its commitment in the CMP. Stating that the realisation of the right to work is an essential precondition for the realisation of other constitutional rights, the Convention circulated the draft of a proposed Act along the lines of the National Employment Guarantee Act.

The draft was an important initiative since unemployment in the rural areas has increased over the decade of the 1990s. The latter part of the 1990s, witnessed total rural employment of all kinds, whether self employed or waged, growing at the rate of only 0.58 percent a year, at a time when the rural population was growing at 1.7 percent per year. The National Sample Survey data 1999-2000 showed that unemployment rates are as high as 7.2 percent for rural males in the work force and 7 percent for rural females¹⁴. Since the unemployed constitute the single largest group among the rural poor, most analysts insisted that the government needed to

¹³ *Legal Action For The Right To Food*, 2004, p 5-6

¹⁴ P. Vijay Shankar P. and C. Rammanohar Reddy, 2004, "Ensuring Employment Guarantee", *Seminar*, Special Issue on "New Priorities", August 2004, pp 24-28, p 23

assure at least 100 days of work, each year, to one member of every rural household on asset creating public works.

The National Rural Employment Guarantee Act enacted in September 2005 secured the right to work. The Act focuses on 330 districts of the country, with the objective of providing 100 days of guaranteed wage employment to arural households through an Act of Parliament. The Sampoorana Grameen Rozgar Yojna (the complete rural employment scheme) and the National Food Programme are subsumed in the Act. Besides assurances of work, the Act provides for strict monitoring by local self-government bodies, special representation for the Scheduled Castes and Tribes, and lays down that one third of the beneficiaries of the right to work should be women. The act has also established grievance rectifying mechanisms, help lines, and funding. And India has practically become a member of the group of 30 countries that grant a right to work to their citizens.

The benefits of such an Act are several. Firstly, although almost 79 percent of agricultural labour owns some land, environmental degradation has rendered land holdings unproductive, thereby forcing thousands of poor families to seek work outside their own lands. All benefits of economic growth have completely bypassed this segment of the population in India. Assured work on asset creating public works such as drought- proofing, tree planting, drainage of water logged areas, and rural connectivity, will hopefully lead to infrastructural development. It will also result in greater productivity, because land will be now proofed against drought and floods. This will necessarily improve the labour absorbing capacities of small farms, and ensure profitability of farming activities. Peasants will consequently be encouraged to move out of state sponsored employment schemes, and back to their own land. Secondly, the development of infrastructure and enhanced productivity will not only lead to a reduction in rural poverty, but also lessen migration to other parts of the country, both rural and urban. Thirdly, wages will serve to generate demand for rural goods and services, even as the construction of roads will facilitate the reach of rural markets, benefiting in the process the rural economy. Fourthly, the development of

infrastructure may well boost private investment, resulting in the generation of secondary employment. Fifthly, assured employment at minimum wages will ensure that people have the opportunity to participate in other social sector programmes such as the provision of midday meals in schools. And sixthly if people are encouraged to participate in the selection of sites for work, in the making of cost estimates, and in the fixing of wages, this will enhance popular participation in developmental projects. In sum, the Rural Employment Guarantee Act will, it is expected, secure a minimum income for every family, ensure social wellbeing, environmental protection, greater participation, and generate more employment. The cost of implementing the programme is about Rs 110 million¹⁵, but the size of investment will inevitably fall, because the need of families to work outside their land will decline over the years. Correspondingly, the programme by assuring Rs 6000 per year to each rural household will result in 75 percent of the rural poor rising above the poverty line.

¹⁵ *Times of India*, 29 April 2007, p 9.

The Campaign for the Right to Health

The main problem with the conceptualisation of the public health policy adopted by the Government of India is that the policy is curative rather than preventive. A preventive health policy would regard the provision of nutrition, safe drinking water, sanitation, hygiene, and education as essential preconditions of health. It would also demand the institutionalisation of an extensive public health system: immunisation programmes, clinics and community health centres staffed by trained medical personnel and para-health workers. All this requires a great deal of public investment, yet the Government of India invests only 0.9 percent of the GDP on health, and only 17 percent of all health care expenditure is borne by the government. This is a figure that is far lower than other developing countries. Cuba for instance spends 6.2 percent, and Namibia 4.7 percent of their respective GDP's on health. In India, health is a State subject and States are expected to contribute to a major part of the finances allotted to the sector, but budgetary allocations of State Governments have shown a consistent decline over the years.

The general neglect of preventive health care and the increasing push towards the involvement of the private sector in the delivery of health services highlights a dramatic lessening of public commitment to health. In 1946, on the eve of the independence of India, the report of the Bhore Committee had suggested a detailed and comprehensive plan for health security. The plan, which was intentionally biased in favour of rural areas, recommended that a uniform and comprehensive public health act be enacted and plans be made for the implementation of an Indian National Health Service. Towards this purpose, the Bhore Committee Report envisaged the establishment of a massive state-managed infrastructure for health, which required the state to allocate almost 10 percent of GDP for health care. Stressing that the provision of health care is an indispensable function of the government, and that this should be provided to all irrespective of their ability to pay, the report suggested that the focus of the health programme must be preventive rather than curative, that health services should be placed as close to the people as

possible to ensure maximum benefit to communities, and that the doctor should be a social physician who combines remedial and preventive measures. If it had been implemented effectively, the Bhore Committee Report would have rendered the private sector in health irrelevant, and the level of health services in the country would have reached three-fifth to that of Britain during the Second World War.

Though the Health Ministers' Conferences in the first few years of independence paid ritual obeisance to the report, and though the first Five Year Plans attempted to incorporate the recommendations, very soon policy makers concurred that comprehensive and universal health security needed far more resources than were available in the country. From the fourth Five Year Plan onward budgetary provisions for health shrank drastically, reaching a new low in the first decade of the twenty first century, though the World Health Organisation (WHO) has recommended that a minimum of 5 percent of GDP should be allotted to health care. Health does not seem to be a priority area for the state or for political parties. For instance, in the 2004 General Elections, health issues were not raised by any candidate.

In fact, we can discern an odd schism between the stated objectives of health policy and the financial outlays made by the government, for it is not as if the Government of India has been insensitive to the need for a sound and fully functioning health system which can deliver efficient services to particularly the rural poor. The public health system that was laid out in the early years of the post-independence period consists of a three-tiered layer of primary health centres, sub-centres, and community centres providing multi-functional out-patient facilities. The number of centres is in direct proportion to the population being served, and special provisions are made for hilly and tribal areas. The Government has also initiated and implemented several disease-control programmes and immunisation schemes, some of which have shown remarkable success. Under the Central Government Health Scheme, health care is provided to government employees, pensioners, and public officials living in big cities. The global debate on health strategy, the signing of

the Alma Ata declaration of 'Health for All' by 2000, and the recommendations of various specialised bodies, have resulted in the enunciation of a comprehensive, integrated, approach to health care in the form of the National Health Policy in 1983. The 2002 National Health Policy aims at achieving basic standards of good health among the population through national public health programmes, extension of infrastructure, medical education, research, enhanced role of stakeholders such as NGOs, enforcement of quality standards in food and drugs, and women's health. It is also not as if India has made no progress in the past several decades in the field of health. Infant mortality rates have dropped to some extent and life expectancy has risen. There have been no reported cases of smallpox since 1985, of guinea worm disease since 1996; and of plague since 1969. Cholera epidemics and related deaths have become more infrequent. The incidence of measles, polio, whooping cough, and tetanus is lower than before. And the proportion of children without immunisation has declined.

Yet the presence of both communicable and non-communicable diseases casts a heavy miasma over every prospect of wellbeing. Infant mortality rates have still to be brought to under 60 per 1000 live births, which was the expressed goal of the 1983 health policy. Maternal mortality rates continue to be 540 per 100,000 live births annually, and mortality rate for children under the age of five years is 93 per 1000 live births, compared to 39 deaths per 1000 live births in China. The main causes of mortality in the age group 0-5 are common diseases which can be easily avoided, such as lower respiratory tract infection, diarrhoeal diseases, perinatal causes and vaccine preventable diseases. Communicable diseases like viral encephalitis, meningococcal meningitis, rabies kala azhar, dengue fever and tuberculosis have escaped control. Epidemics of food poisoning, infectious hepatitis, typhoid fever, measles, tetanus, and pneumonia regularly appear to bedevil the health scenario. It is estimated that about 15 million people suffer from tuberculosis, and that 2.2 million are added to this figure every year. The emergence of AIDS has begun to affect national and regional epidemiological profiles and priorities, and leprosy cases constitute a major part of the world's cases of leprosy.

Of course the picture is not even across the country; for instance Kerala has made progress on all health indicators, whereas Bihar, Uttar Pradesh, and parts of Madhya Pradesh and Rajasthan, show tremendous vulnerability on this front. Secondly, the rural-urban divide when it comes to health is very strong, with the rural sector much more vulnerable to malnourishment and disease. What is also worrying is the massive social inequity between income groups across all regions of the country in matters of health. Studies have shown that the richest 20 percent enjoy three times their share of the public subsidy for health compared to the poorest quintile, and that 20 percent of the population which belongs to the poorest section of society has more than double the mortality rates, fertility rates, levels of under-nutrition than of the richest 20 percent of the population¹⁶.

The malaise of the health scene in India can be traced to a number of factors. Firstly, much of the government health sector under the ministry of health and family welfare was created through policy pronouncements and not law. Consequently, the public sector in health exists without a minimum legislative framework. 'In the absence of law making it mandatory to provide the stipulated minimum health care, citizens are not able to exercise any right over the quantity and the quality of health care provided'¹⁷. Secondly, declining public investment and expenditure in health is compounded by the fact that the system is not only heavily bureaucratised, but also marked by erosion, corruption, inadequate infrastructure, and non-availability of medicines. Thirdly, whereas the Government of India has concentrated massive resources in specific disease eradication campaigns, such as the huge campaign initiated in 1995 to eradicate poliomyelitis through a pulse polio immunisation programme, this has been at the cost of other programmes which aim at the annihilation of common ailments such as diarrhoea and dysentery. Even though

¹⁶ Rajiv, Misra Rachel Chatterjee, and Sujatha Rao. 2003. *India Health Report*. Oxford University Press, Delhi, p 1-2

¹⁷ Amar Jesani, 2002, "Social Objectives of Health Care Services: Regulating the Private Sector". In K. Seeta Prabhu and R. Sudarshan eds, *Reforming India's Social Sector: Poverty, Nutrition, Health and Education*. Social Science Press, Delhi, p 112

dysentery and diarrhoea, along with acute respiratory infections leading to pneumonia happen to be the main killers of children below the age of five, these are not even seen by the Government as diseases. Fourthly, universal programmes of immunisation have failed to establish efficient epidemiological surveillance services for diseases that can be controlled. Fifthly, health policy in India has concentrated more on curative measures rather than on preventive measures such as the provision of safe drinking water, nutrition, and sanitation. And sixthly the health infrastructure, particularly in the rural areas is simply inadequate.

Given all these deficiencies in the public health system, it is not surprising that it is the private sector that has stepped into the gap in a major way since 1991, and is now responsible for three-quarters of the health care in the country. The 1990s witnessed the development of a high technology private sector in health promoting with great vigour the phenomenon of health tourism, coexisting with a minimum clinical package provided by the government. The National Health Policy of 2002, departing from existing understanding, does not even refer to universal health care. What it does suggest is the privatisation of existing hospitals, introduction of more private hospitals, user-fees in government hospitals, and the involvement of the non-governmental sector in health care.

However, the problems of leaving health care to the private sector in a predominantly poor country are many, of which four can be mentioned here. Firstly, unlike the U.S. the private health sector in India is unregulated, save for some states that have laid down guidelines and regulations. Secondly, the private sector is, by definition, driven by the profit motive and marked by relative unconcern for equity. The state might heed the compulsion to provide health care irrespective of the person's ability to pay, even if this motivation is under-laid by the pragmatic need to secure legitimacy. But the private sector does not need to worry about moral legitimacy at all. This has had the expected fall out. The poor who are unable to afford the services provided by the private sector are either denied access to health care, or compelled to resort to cheap but under-qualified or unqualified 'practitioners

of medicine'. It has been estimated that the number of poor that did not seek medical treatment because of financial constraints increased from 15 to 24 percent in rural areas and doubled from 10 to 20 percent in urban areas in the 1990s. A hospitalised Indian spends more than half of his/her total annual expenditure to buy health care¹⁸. Thirdly, if left to the private sector, the balance in health care will inevitably be skewed towards urban based, tertiary level, health services, and tilted against primary health care. Fourthly, again by definition, private practitioners are not inclined towards the initiation or the implementation of measures that ensure preventive health care.

Axiomatically competent health care is directly related to the establishment of supportive infrastructure, high literacy rates, exposure to mass media, social movements, and a strong political will, as in the case of Tamil Nadu¹⁹. Today Tamil Nadu has the third lowest child mortality rate and the second lowest maternal mortality rate in the country. Improved health indicators in the state are the outcome of widespread access to health care, sustained government initiatives in providing for child nutrition, large-ranging immunisation programmes, the attendance of professionals at child births, social security measures such as old age pensions, social support to widows, improved status of women, high gender ratios, a high presence of women in the work force, midday meals in schools-the provision of which both improves school attendance and lessens child under-nutrition, and little gender bias in school attendance. On social development indicators Tamil Nadu ranks just below Kerala, whose success is largely due to the recurring presence of a Left government committed to social wellbeing, as well as to the social movement for health launched by the Kerala Sastra Sahitya Parishad (KSSP). Emphasising that health is a right, the KSSP has consistently argued that health has to be located within the wider social realities of poverty, lack of proper food and an unhealthy living environment. It has consequently sought to raise public awareness through

¹⁸ See *India Health Report 2003*

¹⁹ Seeta Prabhu in her 2001, *Economic Reforms and Social Sector Development: A Study of Two Indian States*, New Delhi Sage, compares the performance of two states, Maharashtra and Tamilnadu

the establishment of health camps, publication of documents on people's health, and stress on indigenous system of medicines. Bihar and Uttar Pradesh on the other hand have high infant mortality rates both because of the lack of social infrastructure and lack of the requisite political will.

It is in this context that social activists have suggested a move away from a policy oriented approach to health and towards a human rights approach which might just manage to secure universal access to health²⁰ The Jan Swasthya Abhiyan (JSA) or the People's Health Movement which is a national level platform of social organisations working on health issues, approaches the issue of health care from the vantage point of human rights particularly from the basic right to life. Employing a variety of strategies from public hearings, to lobbying the National Human Rights Commission, to meeting and lobbying parliamentarians, the JSA has initiated a nationwide 'Health for All' Campaign. The People's Health Movement suggesting that health care should be a fundamental right and an operational entitlement has demanded that the Government of India enact a National Public Health Act to amend the Constitution²¹. This should be done in order to mandate a right to basic healthcare in accordance with article 47 of Directive Principles of State Policy, and article 12 of the International Covenant of Economic, Social, and Cultural Rights. The Act would guarantee universal health care to all citizens through the enactment of comprehensive preventive measures that address mortality and morbidity in the country; strengthening of the public health system in the rural areas, involvement of the community and local self government bodies in health care, raising of public investment in the field, regulation of the private health sector, providing every patient the right to information on every aspect of her treatment, and the institutionalisation of a patient friendly grievance-redressal system. The Act should make it obligatory for every doctor to render essential first aid and medical care in situations of emergency. If the public health system fails to deliver, this should be treated as a legal offence, remedy for which can be sought in a court of law. In sum, the overall

²⁰ Ravi Duggal, 2003, 'Operationalising Right to Healthcare in India', www.cehat.org

²¹ *The Indian People's Health Charter*, Peoples Health Movement, http://phm_india.org accessed on 10 July 2007

goal of health policy should be to move towards a system where every citizen has assured access to basic health care along the lines of the Canadian system of universal health care, the National Health Service in Britain, and the Cuban system of health care for all citizens²².

²² See www.cehat.org for details

The Campaign for the Right to Education

On 28 November 2001 a rather momentous bill was passed by the Lok Sabha; the 93rd Constitution Amendment Bill which subsequently became the Constitution Eighty Sixth Amendment Act 2002 after it received the assent of the President of India. The bill had originally been introduced in 1997 in the Rajya Sabha by the previous government, the United Front Government as the 83rd Amendment Act. However, before it could be passed by the House, the Government had fallen, and the Bill remained in abeyance for four years till it was resurrected by the National Democratic Alliance Government led by the Bharatiya Janata Party in 2001. The new Bill inserted a new sub-clause (a) after article 21 in chapter three of the Constitution, which protects the right to life. The new sub-clause guaranteed that the State shall provide free and compulsory education to all children of the age of six to fourteen in any manner as the State, may, by law, determine. The provision for free and compulsory elementary education, which had earlier formed article 45 of the Directive Principles of State Policy, was thus upgraded to being a fundamental right. This was replaced by a new article 45, which reads that the State shall endeavour to provide early childhood care and education for all children until the age of six years. Further article 51 A of the Constitution has been amended by adding clause (k) that lays down that parents and guardians should provide opportunities for education to their children or child as the case may be, in the age group six to fourteen years.

The 86th amendment should have occasioned much joy and euphoria, for it is the first step towards the realization of a long standing dream held by Indians since the days of the freedom struggle; that of providing education to all children irrespective of the ability of their families to pay. It has been estimated that almost 200 million children will benefit from the right to education. And yet the passage of the bill was accompanied by vociferous protests emanating from a gathering of forty to fifty thousand people, including daily wage workers some of whom had come from far off villages and towns. Participants in the *Shikshan Satyagraha* (the campaign for education), who had been mobilized by the National Alliance for Fundamental Right

to Education (NAFRE), a coalition of about 100 groups working for the right to education, and a funding agency CRY [Child Relief and You], had assembled barely three km from Parliament to demand the right to equitable education for their children. However, what the meet did *not* want was the right to education quite in the way that had been conceptualized by the Government. The bill had confined the right to education from the age 6 to age 14, thus overlooking the importance of early child care, as well as neglecting the rights of children who had joined the formal education stream late to education. Several issues such as neighbourhood schools, and the quality of education provided had been completely ignored by the Government. Despite the unwavering protests articulated by the gathering; and despite the fact that opposition leaders had mounted a number of objections to the bill in Parliament; the Lok Sabha unanimously passed the amendment bill. Though NAFRE called off the agitation, activists and educationists continue to oppose both the amendment and the subsequent Right to Education Bill 2005, the provisions of which are meant to implement the clauses of the amendment.

The 2005 draft of the proposed legislation, which seeks to implement the provisions of the Amendment, is posted on the website of the Department of Education for comments from the public. The draft bill is comprehensive ranging from the obligations of the state to the duties of the parents, from contents of elementary education to community participation, and to the provision of penalties. However, opposition continues to mount to the proposed legislation. 'Despite the active mobilization and lobbying efforts of civil social groups in the course of drafting the 86th Amendment' writes Balagopalan, 'very little of what was proposed actually managed to find its way into the final amendment'²³.

The history of the mobilisation for the right to education is interesting because it highlights the role of the Supreme Court in social policy. In the mid 1990s, a committee of education ministers had recommended that the constitution be

²³ Sarada Balagopalan, 2004, "Free and Compulsory Education Bill, 2004", *Economic and Political Weekly*, Vol 39, No 32, August 7-13, pp 3587-3591, p 3587

amended to make free and compulsory education for children in the 6-14 age group a fundamental right. The committee also recommended that parents and guardians have a fundamental duty to provide opportunities to their children regarding education. The report of the committee was in major part a response to a 1993 ruling of the Supreme Court in the case of Unnikrishna J.P versus State of Andhra Pradesh. The Court had ruled that 'though right to education is not stated expressly as a fundamental right, it is implicit in and flows from right to life guaranteed under article 21'. The court further declared that the Directive Principles of State Policy 'form the fundamental feature and social conscience of the constitution and the provisions of part III and IV are supplementary and complementary to each other'. Fundamental rights, ruled the court, are the means to ensure the goals laid down in part IV and must be construed in the light of the Directive Principles.

The initiative taken by the Court was enormously significant, since the goal of universal education stipulated by article 45 of the Directive Principles of State Policy, which was supposed to be achieved by 1960, has yet to be realized. Despite the fact that the first compulsory education act was legislated by the Parliament for Delhi in 1960 (Delhi Primary Education Act 1960), and despite the fact that other states subsequently adopted this model act, respective legislations failed to bring about major changes in the lives of children. Child labour is still rampant in the country, social biases work against educating the girl child, who is often compelled to drop out of school in order to look after her siblings while her parents go to work, and the presence of deep rooted poverty, particularly among the Scheduled Castes and Tribes, hill and forest communities, precludes education.

From 1986 onwards, the Government of India initiated several schemes to bring more than half the children in the age group 6-14 who are outside the school system within the ambit of education by setting up a parallel stream of non-formal education, through opening up adult literacy classes to children outside the school system, and through the setting up of World Bank sponsored District Primary Education Programmes. These initiatives introducing parallel streams of cheap but low quality

education for poor children under the label of alternative schools came under considerable fire from educationists and activists. Instead of strengthening the existing government and government-aided school system, these schemes provided for contracting often under-qualified youths for a period of nine months at a salary of Rs 1000 per month to teach children, compromising deeply thus the quality of education itself in the process.

Accordingly, when the United Front government introduced the 83rd Amendment Act in the Rajya Sabha in 1997, this sparked off a vibrant debate on the merits and the demerits of the Bill. It also flashed off several initiatives across the country to discuss the proposed legislation. Pratham, a Mumbai-based NGO, organised a meeting in 1997 to discuss the Amendment, and communicated the views of the meeting to the Parliamentary Standing Committee on Human Resource Development. In the same year, several voluntary groups working in Rajasthan met to discuss the implications of the bill and to draft an alternative bill. The Forum for Crèche and Child Care Services campaigned against the Bill on the ground that the rights of children in the 0-8 category have been ignored. Subsequently in 1998 a number of organisations ; Save the Children Fund (SCF) UK, SCF Canada, Pratham, M.V. Foundation Bodh, UNICEF, National Foundation of India, CRY, and the National Law School University of India, came together in The National Alliance for the Fundamental Right to Education (NAFRE). The objective of the alliance is to prevent the dilution of vital rights related to free and compulsory education as defined by the Constitution and as interpreted by the Supreme Court.

The Alliance, arguing that the realisation of every child's right to education is a matter of urgency, acts as a platform to strengthen micro-level initiatives for universalizing education. Stating that free and compulsory education is the responsibility of the state, that the state must provide quality education to all children, and that it should invest a minimum of 6 percent of the national income on education, the Alliance which is today a coalition of more than 2000 voluntary organisations and thousands of individuals, organised almost twelve conventions in

2001 to highlight lacunae in the current Bill. Along with NAFRE, three national networks and alliances working on the issue of education as a fundamental right, Campaign Against Child Labour, Bharatiya Jan Vigyan Jatha, and Forum for Crèche and Child Care Services, agitated against the proposed amendment. Even as opposition to the Bill continued to escalate the Bill was reintroduced in 2001 to become the 86th amendment in 2002. The content of the 86th amendment, which is substantially the same as the 83rd amendment, was to intensify massive mobilization because of lack of attention to early childhood care and education. Early childhood care and education [ECCE] is an established component of education, since it influences the most vital period of the development of human beings, and has immense repercussions on the future intelligence and personality of the child. Since most children who attend government or government related schools are not prepared for schooling through a pre-school system, ECCE will help them to develop language abilities, concepts, intelligence, social skills, and the confidence essential for formal education. In fact it has been established that ECCE is directly related to school drop-out rates and performance. At present the only commitment the state has to children of this age group is the Integrated Child Development Scheme that covers only 22 percent of children, whereas almost 33.35 million children are from families where mothers work to survive, and where consequently small children are neglected. Therefore, ECCE cannot be left to families, many of whom live on or below the poverty line. ECCE is a right and must include both mother and child care as a matter of state responsibility.

Secondly, 60 percent of girl children do not enrol, or are forced to drop out of school, because they have to look after their siblings. ECCE is important because it will enable the girl child to attend school. For these reasons the Supreme Court had in its 1993 judgment declared that ECCE is a fundamental right, vide articles 21 and 45 of the constitution. But the 'shall endeavour' clause in article 45 in the present Bill reduces the responsibility of the state towards this age group. Further, the Bill by leaving out the age group above 16 from its purview practically ensures that children above 16 who have never gone to school, such as girls, are not entitled to

education. Nor will differently-abled children, who under the existing law are entitled to free education up to 18 years of age, be able to do so.

For these reasons the Bill has still not been implemented. In 2006, it was reported that the central government was citing lack of funds as an excuse not to implement the Bill²⁴

²⁴ S. Seethalakshmi 2006, 'Centre buries Right to Education Bill' *The Times of India*, 14 July

The Campaign for the Right to Information

In April 2007 a Foreign Service officer, Veena Sikri, the High Commissioner in Dacca before she resigned in protest, approached the information commission under the Right to Information Act, to ask for access to file notings on the appointment of the Foreign Secretary. The appointment had superseded 16 officers. The Chief Information Commissioner had reportedly remarked that such information should be provided to her. Though the Cabinet Secretariat sought exemption from the disclosure on the ground that cabinet papers were immune under the Right to Information Act and could not be put into the public domain,²⁵ the demand that information relating to appointments in high places was not exempt from the right to information of the citizens in the country is significant.

The campaign for the right to information had a modest beginning in April 1996 when activists participated in a sit-in in Rajasthan's Beawar town on the issue. The slogan that was coined by the sit-in, which continued for forty days, is that 'the right to know is the right to live'. The participants invoked the ruling of the Supreme Court, which in 1981 had declared that 'where a society has chosen to accept democracy as its creedal faith, it is elementary that the citizens ought to know what their government is doing. The people of this country have a right to know every public act, everything, that is done in a public way, by their functionaries. They are entitled to know the particulars of every public transaction in all its bearing'. This, stated the court, is implicit in the right to free speech and expression guaranteed by the constitution under article 19 (1) (a)²⁶ Very quickly the campaign gained steam and attracted considerable attention as well as support from across all sections of the people. The lead organiser of the campaign-the workers and peasants coalition, or the Mazdoor Kisan Shakti Sangathan (MKSS) which based in the Rajsamand district

²⁵ *The Telegraph*, 16 April 2007

²⁶ Mazdoor Kisan Shakti Sangathan. 2002. Right To Information Dossier: Taking Democracy Forward-The Story Of The Right To Information Movement In India. Karnataka Women's Information and Resource Centre, Bangalore, April, p 5

of Central Rajasthan was formally constituted in 1990, has since 1994 waged a relentless struggle on the right of citizens to demand information from the government. In Delhi Parivartan, consisting of a group of social activists, launched a similar campaign in poor neighbourhoods to collect information on the money that has ostensibly been spent on public works.

The immediate provocation for the campaign has by this stage of this argument become tediously familiar: the failure of state governments to enforce minimum wage regulations on drought relief works, mismanagement in the functioning of the PDS, massive corruption in public works in the form of inflated estimates, use of poor quality material, jacked up bills, fictitious muster rolls, and often imagined development works that are conspicuous by their absence. By zeroing in onto the right of people to know what the government has allotted to them and to know what has happened to various programmes and schemes that are meant for their well-being, the campaign has managed to bring to the foreground several issues that lie at the heart of democracy.

- The right of people to know what they are entitled to and the right to know what the government has provided for them.
- The accountability of representatives, administrations, and self-government bodies to the people.
- The right of the citizens to publicly audit the performance of the social sectors, which are essential for their well being.

In short, the campaign for the right to information has, as two scholars put it, breathed new life into the two concepts that lie at the heart of democratic governance; that of transparency and accountability through the provision of information on demand. It is easy, write Jenkins and Goetz, 'to dismiss movements for transparency as so much packaged liberal-pluralist theory, a neutered conceptual form which does nothing to address existing power inequalities, the tenacity of bureaucratic cultures, and the impact of trends which have increased the

influence of far-away events on once fairly insulated local politics-in short, globalisation. But like democracy itself, the idea of transparency maintains its grip on the popular imagination-or at least the intellectual inclinations of political analysts'²⁷

More importantly, the campaign for the right to information has brought to the foreground an institution that lies close to the heart of theorists of deliberative democracy spaces, public hearings or *jan sunwais*. The holding of a public hearing is presaged by hard and often back-breaking work: demand for information from respective administrations; analysis of the data that is provided, and resort to agitations if information has not been provided. Background work also involves time-consuming tasks such as cross-checking of information on estimated expenditures, verifying figures against employment registers and bills, monitoring the amount of food lifted from central stocks against receipts of PDS shops, checking how much of subsidised food has been delivered by the ration shops to the below poverty line [BPL] families, and accessing sale registers of shops to check names and ration cards of the purchasers. When government officials do not provide the movement with information or certified copies of government accounts, the MKSS and its allies hold large-scale public protests to compel them to do so. What is remarkable is that the mechanism of checking and re-checking, monitoring and exposing, and surveillance of actual expenditure has attracted a fairly large degree of public involvement and enthusiastic participation.

Public hearings or *jan sunwais*, which are often organised at the initiative of the citizens themselves, are attended by thousands of people who travel from far off villages to attend these meetings. The participants are given disaggregated information contained in bills, vouchers, and muster rolls of rural development works, and encouraged to participate in the analysis of costs and benefits incurred in these schemes. Through social audits people often come to know that though they are the beneficiaries of poverty alleviation schemes, they have never received

²⁷ Rob G. Jenkins and Anne Marie Goetz, 1999, "Accounts and accountability: theoretical implications of the right-to-information movement in India", *Third World Quarterly*, Vol 20, No 3, pp 603-622, p 607

any funds. Or, as Parivartan has shown in the poor neighbourhoods of Delhi, payments have been made to various interested parties even though the public work for which expenditure was slated was not even initiated. Even as the mismanagement of schemes and the corruption of local officials, contractors, and legislators is laid bare in public, often non-literate peasants have come forward to testify that they have or have not been the recipients of this or that programme, whether they have or have not received the stipulated minimum wages on public works, or received rations from the PDS, and whether the said projects have or have not been constructed at all. As an MKSS write up records, “outraged people came and testified that they have never gone to those work sites, that false signatures had been used and that there were names on the muster rolls of people dead and gone, and other unheard of”²⁸. What could provide a better training in direct democracy?

Public hearings perform three functions all of which are intrinsic to the democratic imagination. They produce informed citizens who are aware of what is due to them, they encourage participation in local affairs through the provision of information and social audit, and they create a sense of civic virtue inasmuch as people in far off and isolated spaces are made familiar with wider issues of collective concern. The right to information campaign, in other words, strengthens democracy simply because it enables people to be both aware of their political, civil, social and economic rights on the one hand, and of their own right to demand fulfilment of these rights. “Knowledge is power, they say”, states a document prepared by the MKSS, “and the powerful in society control the flow of information to control vital resources of the society and also the lives of the disadvantaged, who are disadvantaged in terms of knowledge also. It follows from this that knowledge or information is itself a vital resource of society, helping control other resources as well, and hence a vital entitlement of all people who constitute any society. In short, the Right to Know or the Right to Information, as it is often called, is as fundamental right of a person as any, i.e., as human a right as any”²⁹.

²⁸ MKSS 2002, p 13

²⁹ MKSS 2002:2

The campaign for the right to information has had an enormous influence on other organisations, which have begun to focus on the accountability of government, as well as of non-governmental organisations. In 1996, organisations which had till then individually focussed on anti-corruption activities, joined together to establish the National Campaign for People's Right to Information. The campaign sought reform of the legal provisions that relate to accessibility of government documents, access to which is governed by the 1923 Official Secrets Act. As a result of the campaign, nine state governments have enacted the right to information beginning with Goa in 1997. In 2002 Parliament passed The Freedom of Information Act, which was notified in January 2003.

The Context of Civil Society Activism

That these campaigns have had to focus on the provision of basic goods to the citizens of India³⁰ is cause for some regret because the leaders of the Freedom Movement had understood as early as the second decade of the 20th century that the task of attaining political freedom would of necessity be greatly hampered unless it was accompanied by social and economic freedom and vice versa. The leadership had for that reason conceptualised an integrated agenda of political, civil, social, cultural, and economic rights in the 1928 Nehru Constitutional Draft³¹ and in the Karachi Resolution on Fundamental Rights adopted by the Indian National Congress in 1931. This integrated agenda was however split into its two constituent units in the Constituent Assembly. Whereas the grant of political, civil, and cultural rights in chapter three of the Constitution are backed by legal sanction, social and economic rights, which were placed in chapter four of the Constitution under the title of Directive Principles of State Policy, are not backed by such sanction. The Directive Principles of State Policy are in effect intended as general guidelines for appropriate legislatures and governments and not as fundamental rights. The opening clause of the report of the sub-committee on fundamental rights clearly stated that, “[w]hile these principles shall not be cognizable by any court, they are nevertheless fundamental in the governance of the country and their application in the making of laws shall be the duty of the state”³².

Some members of the Constituent Assembly were deeply critical of the downgrading of social and economic rights to the status of Directive Principles of State Policy which could not be enforced by the court. One of the most vocal members of the Assembly, K.T. Shah, alleged that the whole scheme of directives might be reduced

³⁰ It has been calculated that above 260 million people live below the poverty line in the country National Human Development Report, 2002, Planning Commission, New Delhi Government of India, pg 38

³¹ At its forty third annual session in 1927, the Indian National Congress resolved that a working committee be empowered to draft a *Swaraj* Constitution of India on the basis of a declaration of rights.

³² B. Shiva Rao, 1967, *Select Documents*, Volume 2, Delhi, Indian Institute of Public Administration, p 168

to a “needless fraud”; “an excellent window-dressing without any stock behind that dressing”³³. However, Dr Ambedkar, the President of the Constituent Assembly, assured members that though the principles were not legally binding “whoever captures power will not be free to do what he likes with it. In the exercise of it, he will have to respect these Instruments of Instructions, which are called Directive Principles. He cannot ignore them. He may not have to answer for their breach in a court of law. But he will certainly have to answer for them before the electorate at election time”³⁴.

In pursuit of the general objective of establishing a social order based on social, economic, and political justice, the Directive Principles urge the state to assure the following cluster of goods to the people of India.

- Firstly, *within the limits of its economic capacity and development* the state shall make effective provision for securing the right to work, a living wage, equal pay for equal work, just and humane conditions of work, and a decent standard of life. The state shall also attempt to secure adequate means of livelihood.
- Secondly, the state is obliged to ensure that health is provided for all, that maternity relief is available to women, that levels of nutrition are raised, and that free and compulsory education is provided to all children till the age of 14.
- The third set of directive principles commit the state to providing public assistance in cases of unemployment, old age, sickness, disablement, and in all cases of undeserved want.
- The fourth set of directive principles oblige the state to ensure that the ownership and control of essential commodities is not concentrated in a few

³³ B. Shiva Rao 1968, *The Framing of India's Constitution*, Delhi, Indian Institute of Public Administration, p 320-321

³⁴ B. Shiva Rao, 1968, p 329

individuals, that the ownership of resources is so distributed as to serve the common good, that workers are enabled to participate in the management of undertakings, and that the weaker sections, children, and youth are protected against exploitation.

Chapter 4 of the Constitution provides in sum an impressive array of social objectives, which policy makers are required to keep in mind when designing and producing social policies. The legal historian Granville Austin argues that though Directive Principles of State Policy are not justiciable, “they have become the yardstick for the measurement of government’s successes and failures in social policy”³⁵. However, the downgrading of social and economic rights to the status of mere objectives, and what one member of the Constituent Assembly was to term ‘pious wishes’ has had the expected consequences. Whereas political and civil rights have functioned in some cases fairly effectively as a constraint on state power, social and economic rights have not been treated with the seriousness that these deserve. Dreze and Sen point out that even though “the expansion of social opportunities was very much the central theme in the vision that the leaders of the Indian independence movement had presented to the country at the time the British left, rather little attempt has, in fact been made to turn that vision into any kind of reality”³⁶.

It is not as if policies have not been designed to implement these objectives, and it is not as if programmes have not been initiated for provision of social goods to the needy section of the people. But when it comes to the implementation of these policies, the necessary political will vanishes. Either social policies have not been accompanied by necessary financial outlays, or both have been provided for and the policy itself not implemented, or even if policies have been implemented the process is attended by massive instances of corruption and mismanagement. Moreover,

³⁵ Granville Austin, 1999, *Working a Democratic Constitution: The Indian Experience*, Delhi, Oxford University Press, p 8

³⁶ Jean Dreze and Amartya Sen, 2002, *India: Development and Participation*. Delhi, Oxford University Press, p xiv

though the provision of social goods falls more or less within the provenance of state governments, the Planning Commission through the Five Year Plans determines strategy, priority, and allocation of resources. However, the conceptualisation of planning is not embedded within a 'redistributive ethos'. Therefore, two editors of a volume on the social sector in India rightly suggest that since "the process of planning was initiated without altering initial structural inequities, the distribution of benefits of economic growth has not been egalitarian. Social sector policy, which could have acted as a redistributive measure, did not don this mantle. Further, the very approach of the state towards social sectors has been ambivalent. They have been considered either as constituting welfare, or as a means of enhancing human capital"³⁷.

As a result, social policy in India has proved far too inadequate when it comes to addressing the challenges confronting the nation. An ex-civil servant, who is extensively involved in monitoring social programmes initiated by the Government, is more blunt on this front, "even as the new development state in India has steadily amassed functions, and vastly extended financial powers often in the name of the poor, its capacity to deliver has declined over the years. This is due to rising indiscipline and a growing belief, widely shared among the political and bureaucratic elite, that the state is an arena where public office is to be used for private ends"³⁸. The definitive statement on the incapacity of the Indian state to deliver social goods effectively has been made by Dreze and Sen. They conclude that despite some notable successes, India's overall success in promoting social opportunities has been quite limited. The intensities of many basic deprivations have been considerably reduced, but there is nevertheless a long way to go in ensuring anything like acceptable living conditions for all citizens³⁹. The following figures in the form of a table make clear the lags in social development in the country.

³⁷ Seeta Prabhu and R. Sudarshan, 2002, 'Introduction' in idem ed *Reforming India's Social Sector: Poverty, Nutrition, Health and Education*. Social Science Press, Delhi p 4-5

³⁸ N.C Saxena, 2004, "Improving Service Delivery" *Seminar*, Special issue on 'New Priorities', September, no 541, pp 49-53, p 49

³⁹ Jean Dreze and Amartya Sen, 2002, p 11

Some Social Development Indicators in India

| Indices | India | Sri Lanka | China | Vietnam |
|--|---------------------|--------------------|--------------------|---------------------|
| Infant mortality per live 1000 births | 60 (2003) | 13 (2003) | 30 (2003) | 19 (2003) |
| One Year Olds fully immunized for measles in % | 58.0 (2002-04) | 99 (2003) | 84 (2003) | 93 (2003) |
| Population with sustainable access to improved sanitation in % | 30 (2003) | 91 (2003) | 44 (2002) | 41 (2002) |
| Births attended by skilled birth attendants in % | 47.4 (2002-04) | 97(1995-2003) | 97 (1995-2003) | 85 (1995-2003) |
| Maternal Mortality per 100,000 deliveries | 407 (adjusted 2000) | 92 (adjusted 2000) | 56 (adjusted 2000) | 130 (adjusted 2000) |
| Under-five mortality per 1000 births | 87 (2003) | 15 (2003) | 37 (2003) | 23 (2003) |

Source 'Towards Faster and More Inclusive Growth: An Approach Paper to the Eleventh Five Year Plan', 14 June 2006, Delhi, Government of India, Planning Commission, p 53

Democracy and Activism in Civil Society

What, we can ask at this point of the argument, is the relationship between democracy and social policy which ensures the wellbeing of citizens? Is the relationship between the two an essential one? Or is it random and contingent? Is democracy a necessary prerequisite for ensuring the wellbeing of the people? Conversely will the enactment and the implementation of social policy inevitably follow from the establishment of democracy? There are perhaps no clear answers to these questions, because if there was ever a time when theorists assumed that democracy essentially exists for the wellbeing of the people, that time seems to have long passed. As our recent history has shown us, authoritarian regimes which deny to their people civil and political rights also find it perfectly feasible to ensure the same people a certain level of social and economic well-being. After all, inhabitants of countries run by authoritarian regimes, say Singapore, do enjoy a far better quality of life than citizens of democracies like India. This is a reality that theorists in the business of conceptualising democracy have had to confront with some degree of discomfort. Secondly, it is more than possible that a fully functioning political democracy which has institutionalised constitutionalism, a rule of law, civil and political rights, a free press, a competitive party system, fair elections, and an independent judiciary as in India, can co-exist quite easily and fairly unproblematically with high levels of social and economic inequity and unfreedom.

Does it then follow that democrats should give up on democracy and opt for a regime that can efficiently deliver services/goods that meet the basic needs of people? The answer cannot but be unambiguously in the negative. For even if authoritarian regimes do provide social goods such as employment, housing, food, health, and education to the inhabitants of their country, this, recollect, has absolutely nothing to do with the rights of the people to these goods/services. Our authoritarian regime has delivered these goods/ services as a matter of will,

and if tomorrow it decides to withdraw the provisioning of these goods equally willfully. There is nothing on earth that can prevent it from doing so. This is because people just do not possess basic political and civil rights which enable them to demand these goods/services as a matter of right. But grounding the provisioning of social goods in the often arbitrary will of authoritarian regimes renders access to these goods precarious at best and conditional at worst.

On the other hand, the peculiar virtue of democracy, howsoever formal and minimal our particular avatar of democracy may be, is that it has to, as a matter of necessity, recognize, legalize, and codify the fundamental rights of citizens. Among these fundamental rights is the *root* right to demand rights. It is the possession of inalienable rights which allows citizens to stake a claim on the provision of social goods as a matter of right. It is precisely these rights that enhance the *possibility* of collective action on issues that have to do with the basic conditions in which citizens live out their lives. The codification of political and civil rights in chapter three, and the codification of objectives of state policy in chapter four of the Indian Constitution, have motivated and inspired collective action on pressing social issues. To phrase it differently, if the Directive Principles of State Policy have laid down goals that are worth struggling for, fundamental rights have provided the weapons of struggle in civil society.

India probably possesses one of the most vibrant, and perhaps one of the most unruly civil societies in the world, peopled with citizen groups of all kinds from professional trade unions and lobbies, consumer associations, film clubs, cricket fan associations, election watch and social audit groups, to groups which battle for a ban on soft drinks, prohibition on cruelty to animals, an end to domestic violence, and which promote healthy lifestyles. And some very significant political movements that have carried out far-reaching mobilisation among citizens have emerged in the space of civil society: the movement for land rights, women's movement, the anti-caste movement, the environmental movement, and the movement against displacement by large projects. Most of these movements are grounded in a strong

redistributive ethos; the feminist movement for instance demands a restructuring of power relations that are endemic to a patriarchal society. Whereas the anti-caste movement demands that the balance of power that has consistently favoured the upper castes for centuries be reversed in favour of those who have been consistently marginalised from history, the environmental movement, and the movement against big development projects have insisted that local communities have the first right over resources that have been traditionally been exploited by and for the rest of society. The movement for land rights of course seeks to overturn the inequitable distribution of wealth in the country. India's civil society does not want for agents or for issues; there are more than plenty of both on offer.

Yet these five campaigns have brought to civil society in India new ways of conceptualizing issues and way of getting things done. For one, except for the right to information campaign, most of these campaigns focus specifically on social policy issues, health, education, food, work, and income, particularly in light of the massive social inequality in the country⁴⁰. In particular, these campaigns seek to upgrade the provisions in the Directive Principles of State Policy (part four) of the Constitution, to the status of fundamental rights (in part three) granted by the Constitution. Democracy is, in large part, interpreted by these campaigns in terms of social and economic rights. All campaigns draw upon the language of rights coded in chapter three of the Constitution⁴¹.

Secondly, most of these campaigns, the Right to Information is again an exception, are not interested in raising popular consciousness, mobilizing citizens in pursuit of a cause, or building a mass base. Most of the activist groups prefer to lobby policy

⁴⁰ Not only do a quarter of the world's poor live in India, the number of illiterates; school drop-outs; people suffering from communicable diseases; and infant, child and maternal deaths amount to a staggering proportion of respective world totals. Fifty seven years of electoral democracy have not managed to substantially ameliorate the suffering of these groups. The right to information campaign is involved with specific issues such as information on development projects, but it also seeks to enlarge the democratic capacity of citizens to know what the government is doing with public money.

⁴¹ It is interesting to note that despite the many rights on offer, the Supreme Court has related various articulations of rights to an expanded notion of the right to life or article 21 of the Constitution.

makers, and work through the media. Whatever mobilization is carried out is to ensure the presence of large numbers of people in public hearings. Strategy-wise, these campaigns prefer to (a) network with other organisations (b) call upon like-minded individuals to sign petitions or attend meetings and (c) persuade government officials and members of political parties. The NGOs involved in these campaigns have skillfully employed the range of civil rights granted by the Constitution, and drawn upon the entire repertoire of political strategies that are available to non-violent struggles: public hearings, rallies, sit-ins, processions, research, media, advocacy, and lobbying of members of Parliament and State Assemblies. But the groups involved in the campaign do not focus on politicizing civil society. That is why these campaigns have never been able to attain the status of social movements, nor perhaps are they interested in doing so.

Thirdly, leaders of these campaigns are normally middle class intellectuals, many of whom are active in the World Social Forum, many of whom have floated NGOs, and many of whom have access to sources of major funding. It is difficult to categorize neatly the social base and the constituency of the groups involved in these loosely structured campaigns⁴² but NGOs form almost 80 percent of the coalition. For instance the main groups which came together in 'The National Alliance for the Fundamental Right to Education' are: Pratham a Mumbai based NGO, several voluntary groups working in Rajasthan, the Forum for Crèche and Child Care Services, -SCF U.K, SCF Canada, M.V. Foundation Bodh, UNICEF, NFI, CRY, and the National Law School University of India.

Fourthly, campaigns have achieved notable results only when they have appealed to the Supreme Court, and when the Court has supported them. The Supreme Court has played a hyper-active role in the domain of social policy by interpreting the right to food as part of the right to life, by directing various levels of governments to

⁴² For instance, the interdisciplinary centre of which I am director at the University of Delhi, the DCRC, has been listed in the number of organizations which have campaigned for the right to work, only because our members have been attending meetings.

design policies to address the problem, and by monitoring the implementation of government-sponsored schemes. The Court has instructed the Central Government to design an employment guarantee scheme, to upgrade education to a right, and to essay a right to information act. The Court, in sum, mediates between civil society groups and the state. What is even more striking is that the state can prove fairly indifferent to these campaigns, till the point when the court instructs it to do certain things.

Fifthly, it is notable that unlike political movements which focus on power relations, civil society campaigns concentrate on either one or a cluster of immediate issues, leaving the *big issues* untouched-the huge inequalities of resources in the country for instance. Nor do these campaigns touch the source of powerlessness and helplessness, in, say, skewed income patterns. These campaigns just do not dream the large and expansive dreams that were dreamt off by earlier generations of social activists-restructuring existing structures of power and forging new and equitable structures of social relations so that citizens can participate in the political process from a plane of equality. In part, the Court has adopted a pro-active stance because the agenda of contemporary civil society mobilization is self-limiting and confined to the framework of the Constitution. But social movements that demand a radical restructuring of power relations in the country have just not fetched the required response from the judiciary. This is most evident in the case of the Narmada Bachao Andolan (NBA), a movement that has concentrated on the plight of the thousands of people who have been displaced by the building of the gigantic Sardar Sarovar Project on the river Narmada in Western India. The project consisting of 30 large, 135 medium and 3000 small dams has displaced more than 44,000 families in three states. In 1994, the NBA had approached the Supreme Court and asked it to order the government to stop construction of the dam. In October 2000, however, the Court permitted the raising of the height of the SSP to 90 metres. The ruling not only resulted in the displacement of more families, it also mounted a serious setback to one of the most spectacular movements that had challenged both iniquitous development planning and the power of the state to deal with its people as it wills.

But that is the nature of civil society intervention. Eschewing grand dreams of social and political transformation civil society would rather concentrate on the necessities of everyday life.

The Disjuncture of Democracy and Representation

The success of these campaigns in compelling the government to enact the right to work, the right to education, and the right to information, and the visibility accorded to these campaigns by the media, has wrought a significant alteration in the way we conceptualize civil society. Liberal democratic theorists, always suspicious of the proclivities of the state to expand power at the expense of the freedom of the citizens, and equally skeptical of the ability of political parties to discharge their fundamental obligation, that of representing the popular will, have argued that citizens have to exercise constant vigilance on state power. This is the basic precondition of a thriving democracy because the best of democracies degenerate in the absence of participation and accountability. The space of participation and demands for accountability is civil society or the public sphere⁴³. Here citizens come together in voluntary associations to engage with, to monitor and to hold the state accountable on the one hand, and to create a shared discourse on what a good society should look like, and how this can be achieved on the other.

In recent times however, civil society has come to be identified almost exclusively with the NGO sector. The reasons for this development are complex and outside the purview of this particular essay, but in short the increasing visibility of NGOs in collective life has to do with what can be called the pluralisation of the state, or the state sharing responsibility with civil society organisations in the delivery of social goods⁴⁴. For instance the tenth Five Year Plan suggested that the role of voluntary organisations, non-profit making companies, corporate bodies, cooperatives, and trusts be strengthened in social and economic development, making them thereby

⁴³ The terminology of civil society, I have argued in another context, is misleading. The civil in civil society does not imply the absence of politics. What the term civil does imply is that the space of civil society lies outside the sphere of formal party politics, though arguably the two spheres and that of the market constitute each other. Neera Chandhoke, 2001, 'The "Civil" and the "Political" in Civil Society' *Democratization*, vol 8, no 2, pp 1-24

⁴⁴ Neera Chandhoke, 'Governance and the pluralisation of the state: Implications for democratic citizenship' *Economic and Political Weekly*, 12-14th July, 2003.

partners in development. The tenth Plan follows the logic of the seventh Five Year Plan (1985-1990), which had heralded a perceptible shift from government to civil society organisations and to the market in matters of service delivery. Thereupon, whereas the central government had earlier spent Rs 500 million each year through non-governmental organisations [NGOs] on social sectors, the Seventh Five Year Plan increased the funds available to NGOs operating in this sector to Rs 2,000 million. In 1994 the Planning Commission, after a meeting with almost 100 NGOs, cabinet ministers, and high ranking government officers, issued a document titled an 'Action Plan to Bring About a Collaborative Relationship between Voluntary Organisations and Government'. The document stated that the objective of NGOs should be 'to mobilise and organize the poor with a view to empowering them, breaking the culture of silence and dependence and converting the lowest strata of society from passive recipients of doles, to active participants in the process of planned development'. It is not surprising that the NGO sector expanded dramatically in the wake of these developments, particularly because the government offered large funds to organisations. A recent study by PRIA has calculated that the total number of non-profit organisations in India is more than 1.2 million and that 20 million people work for these organisations either in a voluntary capacity or for a salary⁴⁵.

More significantly NGOs have been promoted by international development institutions because they are seen to possess certain properties: they are relatively unburdened with large bureaucracies; they are more flexible and more receptive to innovation than political parties are; and they are able to identify the needs of the grass roots. Donor agencies would rather give grants to NGOs, than fund governments in the South, which have been found wanting on many fronts, particularly that of enabling their citizens to live in a degree of dignity.

⁴⁵ PRIA (Participatory Research in Asia) and John Hopkins University, 2002, *Invisible yet Widespread: The Non-Profit Sector in India*, Delhi, PRIA, p 5,11.

These developments i.e., the appearance of NGOs and the domination of these organisations over civil society, generate some interesting questions of and for democracy. The significant issue it seems to me is this: though non-governmental agents 'stand in' for citizens, speak for them, engage in the politics of advocacy, and often make and unmake policy, they do so *without ever having fought an election, been authorized, or held accountable*. And they are not likely to do so because representation is simply not their job. This really means that *while NGOs may be in the business of democracy, they are not in the business of being representative of the popular will, or accountable to the people for their acts of omission and commission*. Nor do they have any necessary link with the sphere of participative politics.

Admittedly, the presence of a number of groups in civil society, which pursue agendas independent of political parties and even of citizen groups, is a welcome development because it deepens democracy. Such groups succeed in expanding the political agenda, which is often pre-empted by parties in pursuit of power. However, democrats may well be confronted with one niggling doubt; civil society groups can be considered democratic inasmuch as they serve to deepen democracy and expand agendas, but are these groups representative of the popular will? After all, the establishment of procedures and agents which represent the democratic popular will is arguably the chief reason why democracy is preferable to any other political institution. More importantly, who are these organisations accountable to? For much of the twentieth century it has been assumed that the government is accountable to the citizens, for the policies it makes, and the policies it does not make. Now that governments are sharing responsibility with and delegating functions to NGOS, and now that non-governmental agents are standing in for citizens, who are NGOS, we may ask, accountable to: their clients, the government, multilateral funding agencies, or northern NGOS who also fund them? As two scholars have pointed out, the problems of accountability are particularly difficult when the actors work across great power differences with little shared organisation,

when goals, values, ideologies and interests are diverse, ambiguous or conflicting; and when actors differ about who is in charge or responsible for different tasks⁴⁶. It is not difficult to imagine that all this leads to bewilderment, even as citizens wonder which organisation to hold responsible for acts of omission and commission. In short, since a great many of these organisations are beyond the reach of representation, the idea that a definable system of authority is even *notionally* answerable to the democratic will has been seriously compromised. All evidence suggests on the other hand that organisations are not internally democratic or weakly so, that they promote conformity, and that they are indifferent to notions of democratic citizenship⁴⁷.

⁴⁶ David L. Brown and Jonathan A. Fox, 1998, 'Accountability within Transnational Coalitions' in Jonathan A. Fox and L. David Brown eds, *The Struggle for Accountability: The World Bank, NGOs and Grassroots Movements*, Cambridge, M.A, MIT press, p 440.

⁴⁷ See Ann C Hudock, 1999, *NGOs and Civil Society. Democracy by Proxy?*, Cambridge, Polity Press, for a trenchant critique of NGOs

The Context of the Disjuncture

The paradox of India's democracy: that civil society groups are intent on deepening democracy, but that they are not representative of the popular will, has arguably been propelled onto the forefront of politics by one significant development, representatives, particularly political parties, have not proved either democratic or representative. By the early 1970s, demands for a 'non-party' political process were thrown up by the massive mobilisation launched by the socialist leader J.P. Narayan against the authoritarianism of the Congress leader Prime Minister Indira Gandhi. In the space of a little over two decades, the Congress party had lost its ability to inspire confidence that as a political party it could represent the interests of the people. The same Congress that had specialised in addressing, negotiating, and resolving demands of different groups within the framework of its own organisation had become the captive of the leader. 'The once impressive decentralised organisation of the Congress party', wrote Bardhan in 1984, 'has largely disintegrated; the principle of popular representation at different organisational levels of the Party has been abandoned; [and] nominated to co-opted political operators and gangsters control much of the political machinery'⁴⁸.

The dissatisfaction with political parties occurred in India in the context of a generalised discontent with established modes of representation in other parts of the world. Questions about how the representative was expected to discharge his or her mandate date back to the establishment of the party system, to the classic formulations on representation by Edmund Burke for instance. With the consolidation of representative democracy, these questions did not wane. Should the representative act according to the mandate given by the constituency, or as advocate issues raised by the constituents? Should he or she be a mediator between the constituents and the government? Or should the representative stand in for the constituents? Equally do a combination of roles come together to make the representative semi-autonomous? Critiques of representation focus on the fact that

⁴⁸ Pranab Bardhan, 1984, *The Political Economy of Development in India*, Oxford, Basil Blackwell, pg 79

the interests of the disprivileged tend to get left out of the structures of representation, and thus excluded both from the domain of politics and that of policy. Besides, representatives cannot even begin to fathom the needs and the interests of those who are not like them. Are representatives *capable* of advocating the interests of *that* section of the constituency to which they do not belong? The alternatives that have been thrown up by critics are in the main two: (a) group representation and (b) reservations for disadvantaged groups, in the formal system of politics⁴⁹.

Whatever be the doubts that have been expressed about the satisfactoriness and the competence of modes of representation, notably anxieties about questions about representation are always concerned about deepening democracy. How best can we ensure citizen participation? How best can we assure that the representative represents the multiplicity of opinions, particularly the voices of the marginalised which are articulated in the participative sphere of democratic politics? How can we make certain that citizens and their interests are best represented, through which procedures, and through which modalities? For these reasons civil society has traditionally been seen as a companion concept to the sphere of formal politics. Citizen groups in civil society are expected to create and consolidate public opinion which monitors the state and party representative, initiates policy, and keeps alive the spirit of vigilance which is an essential precondition for democracy.

But in the late 1980s civil society came to be seen as an *alternative* to the sphere of organised politics and formal representation⁵⁰. The deterioration of all institutions,

⁴⁹ Anne Philips, 1995, *Politics of Presence*, New York, Clarendon, pg 40; Iris Marion Young, 2000, *Inclusion and Democracy*, Oxford, Oxford University Press, pp 134-141. Somewhat strangely, advocates of group representation are acutely aware of power equations between communities, but supremely insensitive to power equations *within* communities. Women representatives, lower caste representatives, and representatives of ethnic minorities, can, after all, also prove susceptible to the inexorable 'will to power'. And this still leaves the doubly disadvantaged within the community, unrepresented.

⁵⁰ The reason why civil society was catapulted onto the centre stage of political vocabularies and political imaginations is by now well known. In East and in Central Europe, people turned their back upon non-responsive and authoritarian states which had denied to their own citizens basic political and civil rights. Citizens opted to resurrect or create a civil society as a space in which

and particularly of the institutions of representative democracy, gave rise to several mass-based political movements and grass-roots activism. Scholars were to turn their faces away from the party and the state and towards civil society, towards a 'non-party political process in civil society'⁵¹. Rajni Kothari, who had at one time acclaimed the famous Congress system, which at one point found space for the articulation of all interests in the party itself, was now to suggest that the real counter-trends to authoritarianism were to be found not in the party system, in the arena of electoral politics, or of state power but in the sphere of civil society. "In their place is emerging a new arena of counteraction, of countervailing tendencies, of counter-cultural movements and more generally of a counter-challenge to existing paradigms of thought and action'⁵². "By the late 1980s" wrote Omvedt, "the predominant feature of Indian politics had become the 'new social movements' of women, dalits, and low castes, peasants, farmers, and tribals, as well as ethnicity-based struggles for autonomy or independence on the periphery"⁵³.

By the end of the 1990s however, civil society itself came to be dominated by the highly professionalised organisations, which are neither in the business of mobilising citizens nor in that of representation, though they are certainly in the business of deepening democracy.

individuals and groups came together to reflect on, to consider, and to plan what needed to be done.

⁵¹ See D.L. Sheth, 1983, 'Grass-Roots Stirrings and the Future of Politics' *Alternatives*, vol 9, no 1, pp 1-24; Harsh Sethi, 1984, 'Groups in a New Politics of Transformation' *Economic and Political Weekly*, vol 19, no 7 pp 305-16.

⁵² Rajni Kothari, 1988, 'Decline of Parties and Rise of Grass Roots Movements' in his *State against Democracy, In Search of Humane Governance*, Delhi, Ajanta Publications, pp 33-54.

⁵³ Gail Omvedt, 1993, *Reinventing Revolution*, New York, M.E. Sharpe, pg xii

Summing Up

The establishment of representative institutions to serve as 'proxies' for deliberative spaces in which citizens participate in the making and remaking of rules for society constitutes the rationale as well as the justification of modern democracy. These institutions, it is expected, will try to, as faithfully as possible, capture the intent and the nature of the popular will through a variety of means: consultation, authorization, and accountability. That is why anxious questions about the adequacy of representation are almost always concerned about the fundamental question of how democracy can be deepened. The late 1980s, which witnessed the emergence of civil society as a dominant sphere of collective life, heralded an overriding pre-occupation with the deepening of democracy. The irony is that these concerns might have nothing to do with anxieties about participation and representation. Do we see in modern democracies a disjunction between participation, representation, and democracy?

In major part the disjuncture has resulted from the incapacity of representatives to represent the popular will, and by the degeneration of political parties. It is worthwhile noting that across the world, issues relating to civil liberties, gender justice, ecology, the fight against war, for peace and non-nuclearisation, the rights of alternative sexualities and ethnic minorities, and struggles for justice, have been raised by civil society activists. We cannot dismiss these issues simply because the organisations do not focus on representing the democratic will. But we cannot also dismiss representative democracy as being of little consequence because unless citizen aspirations are articulated through policy, policies can be imposed on the citizens. What we can do is to think of how the context of representation can be strengthened, so that representation can be made more effective and more democratic.

Civil societies, we need to recognize are plural, the members of this sphere speak in many tongues, and a number of agents engage in all manners of projects, not all of

which sit very easily with each other. Some project challenge the manner in which state power is exercised, other projects seek to expand the obligations of the state, and yet other projects put forth alternative notions of politics. Civil society emerges as the theatre where these projects articulate or negotiate, supplement, or challenge each other in order to strengthen and deepen democracy. Democracy is about recognizing the political competence of the public to set agendas, to put forth alternative visions of what a desirable society looks like, about engaging with the state, about the right to protest, about the right to participate in the political domain, about the right to choose representatives and about the right to withdraw mandates from representatives. Democracy is more than just delivery of social goods as the prerequisites of a good life, so that citizens freed from the necessity of eking out a bare subsistence can participate as full members of civil society. In Rawlsian terminology, “though men’s rational plans do have different final ends, they nevertheless all require for their execution certain primary goods, natural and social...whatever one’s system of ends, primary goods are necessary means.”⁵⁴ The nature of these primary goods is well known by now: a right to work, to nutrition, health, education, shelter, self-respect and basic rights.

The only way in which both participation and representation can be strengthened is that like-minded groups connect with deliberative spaces in civil society, so that at some point citizens have an opportunity to participate in these debates. It is also important that civil society groups connect with established modes of representation. At some point public opinion has to feed into policy and policy rendered accountable. This really means bringing the sphere of participative and democratic politics closer to the domain of policy making via the representative. For despite all the reservations about political parties, parties possess two advantages: firstly, representatives are authorized in and through procedures of elections, and secondly representatives are held accountable to constituencies through elections. The representative still stands squarely at the centre of democracy. For this reason the links between civil society actors and representatives needs to be strengthened, and

⁵⁴ John Rawls, 1972, *A Theory of Justice*, Oxford, Oxford University Press, p. 15.

the domains of civil and political society have to be seen not as alternatives to each other but as companion concepts. It is only then that the disjuncture can be transformed into conjuncture and conditions for building, 'substantive democracy', can be created and fostered.