

Administrative Reforms Commission's 9th Report titled "Social Capital – A Shared Destiny"

Details of the Government's decisions on the recommendations of the Administrative Reforms Commission

| Sl. No | Recommendations made by Administrative Reforms Commission | Government's Decision |
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| <p>1.</p> <p>2.</p> <p>3.</p> | <p>1. (Para 3.1.2.6) New Legal Framework for Charities in India</p> <p>a) The Union Government should draft a comprehensive model legislation covering both Trusts and Societies in lieu of the existing laws on Societies, Trusts, Endowments and Charitable Institutions etc.(1)</p> <p>b) In place of the present charity administration consisting of a Charity Commissioner / Inspector General of Registrations as existing in the States, the proposed law should provide for a new governance structure in the form of a three member Charities Commission in each State with necessary support staff for incorporation, regulation and development of Charitable Organisations. The Chairman of the Commission should be a law officer drawn from the cadre of District Judges. Out of the other two members, one should be drawn from the voluntary sector and the other would be an officer of the State Government. In addition, the State should also have a Charities Tribunal which would exercise appellate powers over the orders of the Charities Commission.(2)</p> <p>c) The proposed model legislation should indicate a cut off limit with regard to the annual revenue of a Charity. Organisations having an annual income below this threshold will have lighter compliance requirements with respect to submission of returns /reports/ permission etc. However, if</p> | <p>(a) to (e) The Recommendations have been accepted. Law Commission may be requested to consider formulation of model law to be suggested to State Govts. It was further recommended that it should be made mandatory for charity organizations and NGOs to take Permanent Account Number (PAN).</p> |

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| 4. | <p>irregularities are detected in their functioning, the organisations will be liable for legal and penal action. To start with, the cut off limit could be set at Rs.10 lakhs which could be reviewed for upward revision once in five years.(3)</p> <p>d) The government should set up an Inclusive Committee which will comprehensively examine the issue of defining 'Charity' and 'Charitable Purpose' and suggest measures to "soften" charities-government relationship, particularly in tax matters.(4)</p> <p>5. e) The model legislation should take into consideration the views and suggestions made above with regard to the following issues of charity administration:</p> <ul style="list-style-type: none"> i. Interface with the State Government ii. Alteration in the memorandum iii. Approval on change report iv. Alienation of immovable property v. Contribution by Public Trusts to the State Government(5) | |
| 6. | <p>2. (Para 3.2.6.2.5) Corporate Social Responsibility</p> <p>a) When a community benefit project is taken up by a corporate entity, there should be some mutual consultation between the company and the local government so that there is no unnecessary overlap with other similar development programmes in the area.(6)</p> <p>7. b) Government should act as a facilitator and create an environment which encourages business and industry to take up projects and activities which are likely to have an impact on the quality of life of the local community.(7)</p> | (a) & (b) The recommendations have been accepted. |

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| <p>8.</p> <p>9.</p> <p>10.</p> | <p>3. (Para 3.2.7.2.8) Accreditation of Voluntary Organisations</p> <p>a) There should be a system of accreditation / certification of voluntary organisations which seek funding from government agencies.(8)</p> <p>b) Government should take initiative to enact a law to set up an independent Body – National Accreditation Council – to take up this work. In the beginning, Government may need to provide a onetime corpus of funds to this organisation.(9)</p> <p>c) The above law should provide details with regard to the constitution of the Council, its functions, its powers to levy appropriate fees from the applicants, and other related matters.(10)</p> | <p>(a) to (c) : The recommendations have been accepted. It was further decided that registration of the voluntary organizations should be encouraged. Task Force for Accreditation of Voluntary Organisations set up by the Planning Commission should be requested to expedite its Report.</p> |
| <p>11.</p> <p>12.</p> <p>13.</p> | <p>4. (Para 3.3.7) Charitable Organisations and Tax Laws</p> <p>a) Under Section 12AA and Section 80G, the registration or approval should be granted or an order rejecting the application should be passed within a period of ninety days from the date of filing of the application instead of the present one hundred and eighty days.(11)</p> <p>b) In view of the fact that infrastructure projects are a critical component of charitable institutions, the period for accumulation of surplus which is currently five years needs to be further enhanced.(12)</p> <p>c) The present National Committee may be replaced by four Regional Committees to recommend “deduction on expenditure” to the Union Government under Section 35AC of the Income Tax Act.(13)</p> | <p>(a) to (c) The recommendations have not been accepted.</p> |

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| 14. | <p>5. (Para 3.4.4) Regulation of Foreign Contribution</p> <p>a) The Foreign Contribution (Regulation) Bill, 2006 needs to be amended to include inter-alia the following suggestions:</p> <p>i. There should be a fine balance between the purpose of the legislation on one side and smooth functioning of the voluntary sector on the other. The objectives of such a regulatory legislation should be properly enunciated to avoid subjective interpretation of law and its possible misuse.(14)</p> | |
| 15. | <p>ii. There should be a time limit for procedures falling under Section 11 (seeking registration or prior permission for receiving foreign contribution).(15)</p> | |
| 16. | <p>iii. Transparent rules/guidelines should be prescribed for inter-agency consultation particularly in respect of (a) the minimum amount of donation which would require inter-agency consultation, (b) the level of the Authority which would authorize it, and (c) setting uptime limits for such procedures.(16)</p> | |
| 17. | <p>iv. To facilitate (a) speedy disposal of registration / prior permission petitions received from organisations, (b) effective monitoring of their activities, and (c) proper scrutiny of returns filed by them, some of the functions under the Foreign Contribution (Regulation Act) should be decentralised and delegated to State Governments/ District Administration.(17)</p> | |
| 18. | <p>v. Other concerns as stated in paragraph 3.4.1.5.3 also need to be considered.(18)</p> | <p>(a) (i) to (iv) The Amendment Bill is under consideration of the Govt. which has taken into consideration ARC recommendations. However, de- centralization and delegation to State Govt./District Administration has not been agreed to.</p> <p>(v) These issues were considered by the Parliamentary Standing Committee on Home which examined FCRA Bill, 2006, and most of these suggestions were not agreed to. Hence, this recommendation is not accepted.</p> |

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| 19. | <p>b) Organisations receiving an annual foreign contribution equivalent to less than Rs.10.00 lakh in a year (the figure to be reviewed from time to time) should be exempted from registration and other reporting requirements of the law. They should be asked, instead, to file an annual return of the foreign contribution received by them and its utilisation at the end of the year. The law may provide that they may be liable to be investigated, if there is a reasonable suspicion of suppression / misrepresentation of facts, and penal provisions of the law will be used against them in case violation is established.(19)</p> | <p>(b) The recommendation has not been accepted.</p> |
| 20. 21. 22. 23. | <p>6. (Para 4.6.10) Issues of Self-Help Group Movement</p> <p>a) The role of the Government in the growth and development of the SHG movement should be that of a facilitator and promoter. The objective should be to create a supportive environment for this movement.(20)</p> <p>b) Since a large number of rural households in the North-Eastern States and Central-Eastern parts of the country (Bihar, Jharkhand, Uttar Pradesh, Uttarakhand, Orissa, Madhya Pradesh, Chhattisgarh and Rajasthan) do not have adequate access to formal sources of credit, a major thrust on the expansion of the SHG movement in these areas should be facilitated. The presence of NABARD should be much more pronounced in these places.(21)</p> <p>c) The SHG movement needs to be extended to urban and semi-urban areas. State Governments, NABARD and commercial Banks should join together to prepare a directory of activities and financial products relevant to such areas.(22)</p> <p>d) Currently, the commercial Banks, on the</p> | <p>(a) to (k) The recommendations have been accepted.</p> |

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| | basis of a project's financial viability can disburse microcredit in urban and semi-urban areas on their own but such micro-credit disbursements are not entitled to refinance from NABARD. If necessary, the NABARD Act, 1981 may be amended suitably to bring urban / semi-urban areas under its refinance mandate. (23) | |
| 24. | e) The SHG – Bank Linkage model with a mentor SHPI in tow deserves to be encouraged as the preferred mode for financial intermediation throughout the country. (24) | |
| 25. | f) Commercial Banks and NABARD in collaboration with the State Government need to continuously innovate and design new financial products for these groups. (25) | |
| 26. | g) There should be a planned effort to establish RRB networks in the 87 districts of the country which currently do not have RRB presence. (26) | |
| 27. | h) Special steps should be taken for training / capacity building of government functionaries so that they develop a positive attitude and treat the poor and marginalized as viable and responsible customers and as possible entrepreneurs. (27) | |
| 28. | i) Rural credit is often viewed as a potential Non Performing Asset. There is need to educate government employees and Bank personnel in this regard. Technology may be leveraged to reduce the cost of reaching out to the poorest of the poor. (28) | |
| 29. | j) There is need to review the scale of the promotional grant given to SHPIs by NABARD (currently Rs.1500/- per SHG formed and activated). (29) | |
| 30. | k) In order to scale up the operations of the | |

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| | <p>Rashtriya Mahila Kosh, its corpus should be enhanced substantially. RMK's geographical reach should be expanded to help quick processing of loan applications and effective monitoring of the sanctioned projects in far off areas. The Kosh may open adequately staffed regional offices at selected places in the country and give greater attention to the credit deficient States.(30)</p> | |
| 31. | <p>I) The Micro Financial Sector (Development and Regulation) Bill, 2007 needs to be amended to include the following suggestions:-</p> <p>i. The scope of Micro-finance Services should be substantially widened to cover credit / savings, insurance, pension services, money transfer, issue / discount of warehouse receipts and future / option contracts for agricultural commodities and forest produce.(31)</p> | <p>(I) (i) to (iii) The recommendation has been accepted in principle and would be considered in the proposed Bill.</p> |
| 32. | <p>ii. 'Nidhis' registered under Section 620A of the Companies Act, and Producer Companies should be brought under the new legislation.(32)</p> | |
| 33. | <p>iii. The activities of Section 25 Companies to the extent they concern micro-financial services as described under the proposed Bill should also be brought under the purview of this legislation. However, for their management and other functions, they will continue to be governed by the provisions of the Companies Act.(33)</p> | |
| 34. | <p>iv. The issue of interest rate charged by the MFIs should be left to the Regulatory Authority which is being created under the proposed Bill.(34)</p> | <p>(iv) The recommendation has not been accepted.</p> |
| 35. | <p>v. It should be ensured that if MFIs are</p> | <p>(v) The recommendation has not been</p> |

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| 36. | <p>allowed to handle thrift / savings and money transfer services, they would do so only as business correspondents of commercial Banks. Other concerns as stated in Para 4.6.9.9.2 also need to be considered.(35)</p> <p>m) Micro-finance institutions covered under the proposed law should be kept out of the purview of the State laws on money-lending.(36)</p> | <p>accepted.</p> <p>(m) The recommendation has been accepted in principle and would be considered in the proposed Bill.</p> |
| 37. | <p>7. (Para 5.2.13) Separating Professional Education from Self-Regulatory Authorities</p> <p>a) Professional education should be taken away from the domain of the existing Regulatory Bodies and handed over to specially created agencies – one for each of the streams of higher/professional education. These Bodies may be called National Standards and Quality Council for Medicine, National Standards and Quality Council for Management etc. After this bifurcation, the work of the existing Regulatory Bodies' would remain confined to issues concerning registration, skill upgradation and management of professional standards and ethics. On creation of these separate Councils, the AICTE will stand abolished.(37)</p> | <p>a) to (f) A separate Group of Ministers has been constituted to consider the issue of separating professional education from Self Regulatory bodies. It was decided that the decision of that GoM could be brought before this GoM for its consideration</p> |
| 38. | <p>b) Such Councils should be created by law and their role should be to lay down norms, standards and parameters on issues concerning growth and development of their stream viz. (a) setting up new institutions, (b) designing/ updating curriculum, (c) faculty improvement, (d) carrying out research / innovation, and (e) other key issues concerning the stream.(38)</p> | |
| 39. | <p>c) The proposed law should take into consideration the following guiding principles while constituting these Councils:</p> | |

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| | <p>i. Such Councils should have full autonomy.</p> <p>ii. The highest policy and decision making Body of these Councils should have a majority of independent members, and preferably no more than 2 or 3 drawn from government, who could be there in an ex-officio capacity.</p> <p>iii. These Councils should have a strong and effective grievance redressal mechanism.</p> <p>iv. The Councils should be accountable to Parliament and their Report should be placed before the House annually. In addition, there should be strong norms for suo-motu disclosures under the RTI Act.</p> <p>v. Each of these Councils should have a body of experts to advise it on accreditation / certification of institutions falling under their jurisdiction.</p> <p>vi. Some of the members of such Councils can be elected from office bearers of specialty Associations (e.g. Indian Medical Association), as these members are elected by the practicing professionals in their individual speciality.(39)</p> | |
| 40. | <p>d) Within such norms, standards and parameters, the Universities/Autonomous Institutions should be given full autonomy for setting up and running institutions under their jurisdiction.(40)</p> | |
| 41. | <p>e) The recommendations of the National Knowledge Commission regarding reforms in the structure, governance and functioning of Universities should be examined and implemented on priority. The process of appointment of Vice Chancellors should be free from direct or indirect interference of the government. Vice Chancellors should be given a fixed tenure and they should have adequate authority and flexibility to govern the Universities with the advice and consent of the Executive Council.(41)</p> | |
| 42. | <p>f) There should be stronger ties between</p> | |

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| | educational institutions in the public and private sectors through mechanisms such as exchange of faculty.(42) | |
| 43. | 8. (Para 5.3.5) Continuing Professional Education a) Every Professional Regulatory Body in coordination with the respective National Quality and Standards Council and Academic Institutions should conduct Continuing Professional Education programmes periodically for updation and skill enhancement of its members.(43) | (a) As per the comments against para 5.2.13. |
| 44. | 9. (Para 5.4.3) Ethical Education and Training a) After separation of professional education, the agenda of the Professional Regulatory Authorities should be to focus on (i) procedure for registration of new members / renewal of registration; and (ii) matters concerning professional ethics, standards and behavior. The Regulatory Authorities should also pay greater attention to conducting workshops, seminars and training programmes on such issues.(44) | (a) As per the comments against para 5.2.13. |
| 45. | 10. (Para 5.5.4) Enrolment in the Profession a) Within the parameters of the Act, the respective Regulatory Authority should be empowered to prescribe guidelines for enrolment of new members.(45) | (a) As per the comments against para 5.2.13. |
| 46. | 11. (Para 5.6.3) Renewal / Revalidation of Registration a) There should be a provision in the relevant laws that a professional registration/license will need revalidation after a prescribed number of years. It could be done after successful completion of a course prescribed by the respective Professional Regulatory Authority.(46) | (a) The recommendation has not been accepted |

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| <p>47.</p> <p>48.</p> <p>49.</p> | <p>12. (Para 5.7.6) Disciplinary Mechanism</p> <p>a) There should be provision in the relevant laws that in order to bring objectivity in their working, the Disciplinary Committees of the Regulatory Authorities at both the State as well as the national level should consist of professional and non-professional members. They could be inducted in the Committee in the ratio of 60:40 respectively.(47)</p> <p>b) The law should provide that such Bodies should be required to complete the entire disciplinary proceeding within a prescribed time span (say 90 days).(48)</p> <p>c) The law should also have a provision that anybody aggrieved with the findings of the State Panel could go in appeal to the National (Apex) Body which too will have to dispose of the matter within the prescribed time limit (say 90 days).(49)</p> | <p>(a) to (c) As per the comments against para 5.2.13.</p> |
| <p>50.</p> <p>51.</p> <p>52.</p> | <p>13. (Para 5.8.10) Constitution and Composition of the Self-Regulatory Authorities</p> <p>a) The structure and composition of the General Council and the Executive Committee of Professional Regulatory Authorities should be rationalised. As far as practicable, it should be uniform for all of them.(50)</p> <p>b) Every Authority should have a fairly large and representative General Council (the ideal number could be around 50; such a Body encourages a wider perspective and diversity of opinions).(51)</p> <p>c) The Executive Committee should be a small Body consisting of 10 to 15 members (a compact forum supports administrative efficiency and accountability).(52)</p> | <p>(a) to (d) As per the comments against para 5.2.13.</p> |

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| 53. | d) There should be an explicit provision that a person cannot be elected to the post of President / Vice-President or General Secretary for more than one term. However, a person could be elected as a member of a Body for a maximum of two terms.(53) | |
| 54. | 14. (Para 5.8.12.4) Clients / Users – as Lay Members in Regulatory Authorities a) The composition of the General Council as well as the Executive Committee should be such that 40% of the strength consists of lay members.(54) | (a) & (b) As per the comments against para 5.2.13. |
| 55. | b) The nomination of lay members should be done by the Ministry /Department concerned in consultation with the appropriate Regulatory Authority.(55) | |
| 56. | 15. (Para 5.9.4) Accountability and Parliamentary Oversight a) The laws governing the Self-Regulatory Authorities should have a provision under which the Regulatory Authority should be required to present an Annual Report to the Parliament for scrutiny.(56) | (a) As per the comments against para 5.2.13. |
| 57. | 16. (Para 6.4.10) Cooperatives; Constitutional Context a) An Article should be added to Part-IV of the Constitution in the form of 43B where the State should be made responsible for making such laws that will ensure autonomous, democratic, member driven and professional cooperative institutions. In that case, a large scale Constitutional amendment on the pattern of Parts-IX and IX-A which was introduced by the 73rd and 74th Amendments, will not be necessary. The proposed Article 43B may read as follows: <i>Article 43B: Empowerment of Co-operatives: "The State shall endeavour to secure by suitable legislation or economic</i> | (a) The recommendation has been accepted. An Amendment Bill is under consideration of the Govt. |

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| 58. | <p><i>organisation or any other way autonomous, democratic, member driven and professional cooperative institutions in different areas of economic activity particularly those relating to agriculture.”(57)</i></p> <p>b) The Commission endorses the amendments suggested by the National Advisory Council and feels that this coupled with the amendment suggested in the Directive Principles would be a step in the right direction to make the cooperative institutions voluntary, democratic, professional, member-driven and member-centric enterprises. Accordingly, the following amendments may be made in the Constitution:</p> <p>i. Under Article 19, 19(1)(h) may be added as follows:</p> <p><i>“(h) to form and run cooperatives based on principles of voluntary and open membership, democratic member control, member economic participation, and autonomous functioning free from State control.”</i></p> <p>ii. Correspondingly, Article 19(4) should be amended as follows:</p> <p><i>“(4) Nothing in sub-clauses (c) and (h) of the said clause shall affect the operation of any existing law in so far as it imposes, or prevents the State from making any law imposing, in the interests of [the sovereignty and integrity of India or] public order or morality, reasonable restrictions on the exercise of the right conferred by the said sub-clause”.(58)</i></p> | (b) The recommendation has not been accepted. |
| 59. | <p>17. (Para 6.5.6) Legislative Framework</p> <p>a) All States (other than Andhra Pradesh, Bihar, Jharkhand, Madhya Pradesh, Chhatisgarh, Orissa, Uttarakhand,</p> | (a) & (b) The recommendations have been accepted. |

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| 60. | <p>Karnataka and Jammu and Kashmir) should immediately take steps to enact their own Mutually Aided /Self-Reliant Cooperative Societies Act on the pattern of the Model Law suggested by the Task Force on Revival of Cooperative Credit Institutions.</p> <p>The States where such Acts are already in existence should also examine the Model Law suggested by the Task Force and amendments in the existing legislations may be made, if so required.(59)</p> <p>b) For the next few years, there is need to have parallel laws to deal separately with (i) the Mutually Aided / Self-Reliant cooperative societies formed under the recent enactments (post 1995), and (ii) societies formed under the old laws in which the government still has financial stakes. The societies referred at (ii) above should gradually be encouraged to clear off their liabilities and convert into Mutually Aided Societies.(60)</p> | |
| 61. | <p>18. (Para 6.6.8) Producer Companies</p> <p>a) A new law regarding Producer Companies should be enacted on the basis of the following broad principles:</p> <ul style="list-style-type: none"> i. Producer Companies should be given a liberal charter of functions to take up any primary activity as per their technical and financial capability; ii. The law should provide for flexibility in investment of funds, surpluses / reserves; iii. Depending on their functional requirement and financial strength, a Producer Company should have full flexibility in creating / abolishing executive and managerial posts; iv. The compliance requirements with regard to the Company's audit and accounts should be in tune with the size of its operations; and | (a) & (b) The recommendations have not been accepted. |

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| 62. | <p>v. The law should have provision for proxy voting in order to facilitate smooth conduct of elections and general meetings.(61)</p> <p>b) Co-operatives should be encouraged to incorporate themselves as Producer Companies under the existing provisions of Part IXA of the Companies Act, 1956 and subsequently under the new law, as and when enacted, as this would be a more viable option in the present environment. The existing inter-State cooperative societies may also explore the possibility of getting themselves converted into Producer Companies.(62)</p> | |
| 63. | <p>19. (Para 6.7.15) Cooperative Credit and Banking Institutions</p> <p>a) The process of implementation of the revival package for Short-Term Rural Cooperative Credit Structure (STCCS) formulated on the basis of the Vaidyanathan Committee Report should be completed immediately. It consists of the following major steps :</p> <p>i. States which have so far not signed the MOU for this purpose should be asked to do so without further loss of time.</p> <p>ii. The Banking Regulation Act, NABARD Act and the State Cooperative Societies Acts need to be suitably amended in order to improve the management/ governance of cooperative credit institutions.</p> <p>iii. A model Cooperative Law needs to be enacted by the States. States which do not wish to pass the Model Act, should introduce a separate chapter on Agricultural and Rural Credit Societies containing the salient provisions of the Model Law in their existing Cooperative legislation.(63)</p> | (a) & (b) The recommendations have been accepted. |
| 64. | <p>b) Similar steps should be taken in a time-bound manner in respect of the recommendations of the same Committee</p> | |

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| | on Long-Term Cooperative Credit Structure (LTCCS).(64) | |
| 65. 66. | <p>20. (Para 7.7) Integrated Social Policy</p> <p>a) Government should craft an integrated social policy which will ensure priority State action on the key issues relating to social justice and empowerment.(65)</p> <p>b) Government should provide a significant portion of its plan allocation for implementation of this integrated social policy.(66)</p> | (a) & (b) The recommendations have been accepted. |
