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Empowerment of Women Representatives in Panchayat Raj Institutions: A Thematic Review

Narayana Billava* & Nayanatara S. Nayak**

Abstract

Panchayat Raj Institutions (PRIs) are viewed as solution to all the problems of rural development and is linked to empowerment of the marginalized section of society, especially women. This paper presents a thematic review on the empowerment of women representatives in PRIs with reference to decentralisation process and the 73rd constitutional amendment in India covering the level of awareness among representatives about panchayat functioning, capacity to take self-decision, participation in community activities, changes in their socio-economic conditions, decision making power at panchayat level and their political participation. The participation of women representatives including members from weaker sections appears to have increased substantially over the years mainly on account of affirmative action. Various studies indicate that women leaders are less corrupt, are able to provide more public goods of equal quality at effective price and consider women’s preferences to improve overall governance. On the contrary, studies have also found that women representatives are illiterate; depend on husbands and male officials, especially in taking decisions with regard to village development programmes. The review suggests that the political journey is not smooth for women in a patriarchal and caste-ridden society on account of which women members face a lot of problems in the village panchayat. Women representatives are not comfortable to work at the panchayat level due to dominance of male representatives and they take a longer time to prove their capacity as compared to male representatives. Moreover, it was found that male representatives spend more time on political activities while, women spend more time in carrying out household chores. Overall, affirmative action through 73rd amendment has given women and the marginalised communities a sense of empowerment though they are yet to reach an equilibrium level. As assumed by many researchers, in the next decade or so the Scheduled Castes, Scheduled Tribes and women are bound to make further progress in their social status, leadership role, economic position, educational level and, political awareness and attainment.

Keywords: Panchayat Raj, Empowerment, Political Participation, Reservation, Women

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Introduction

Democracy ensures empowerment, while Panchayat Raj Institutions (PRIs) guarantees participation of all segments of society in the process. Greater gender equality is the key to successful participation of women in any democracy. Central and state governments have implemented many programmes to provide equal opportunities in education, employment and to improve economic status of women. As a result of this, status of women in India has been subject to many changes over the past two decades. When independence was declared, Mahatma Gandhi observed: ‘As long as women of India do not take part in public life there can be no salvation for the country; the dream of decentralization could never be fulfilled. I would have no use for the kind of Swaraj to which such women have not made their full contribution’ (Usha, 1999). Gender inequality is a major concern and government of India alongside various state governments have been engaged in a number of intervention programmes aimed at empowering them in true sense.

Empowerment of women is the process of strengthening the economic, social and political status of women in society by which they have dignified and well-regarded life. One of the major interventions used by women empowerment promoters is to empower women through the panchayat raj institutions (PRIs) thereby to ensure their participation in the process of political decision making. The 73rd constitutional amendment is a milestone mainly for two reasons: a. it facilitated local empowerment and b. it ensured women's empowerment. It provides 33 percent (one third of the total number) reservation in panchayat seats for women. This act also provides reserved seats for Scheduled Castes (SCs) and Scheduled Tribes (STs) in proportion to their population. Same proportions (one third) of the offices of chairpersons of panchayats have been reserved for women. Currently the reservation quota for women is set at 50% at PRIs level.

India has marked the new millennium by pronouncing 2001 as the year of women’s empowerment. The gender equality and empowerment of women is considered as one of the important goals (Goal-3) under Millennium Development Goals (MDGs). Apart from this, Government of India (GOI) has implemented a project UN Women Programme in the year 2011 with the financial assistance from external agency (UNDP) to promote women’s political leadership and gender governance in rural area. The main aim of this programme is to strengthen and enhance equal political participation of women in local PRIs. According to Global Gender Gap Report 2012, the rank of India is 105 out of 135 countries based on the composite index of economic participation, educational attainment, political empowerment, and health and survival (Hausmann, et al 2012). The reservation in local bodies helps women to gain respectful position and to address their issues and concerns, but has not been substantially supported by male society. Women's empowerment still remains a major concern. The reservation of one-third of seats or half of the seats as recently proposed for women in PRIs by itself is not sufficient for their empowerment. In most of the cases, women are housewives and representatives who have entered politics for the first time. Narrow-minded culture, patriarchal society and low levels of education are reasons reported to be responsible for their low political participation in rural local bodies (Rashimi 1997, Dahlerup 2005, Gochhayat 2013).

In this paper, an attempt has been made to present a thematic review on empowerment of women representatives throwing light on the levels of their awareness about the
functioning of panchayats, capacity to take self-decision, participation in community activities, their socio-economic conditions, decision making power at panchayat level and political participation after 73rd constitutional amendment.

Empowerment of Women Representatives of PRIs
We have completed almost two decades of 73rd amendment. Many research works carried out so far, are related to the provision of reservation for women, whether reservation has benefitted their participation in PRIs, whether they are empowered in terms of decision making and independent functioning after entering into panchayat system, are they aware of their role and responsibility, their participation in capacity building programmes, their interests in politics, community activities and panchayat activities, etc.

Women Empowerment and Reservation System
The constitutionally mandated reservations in Panchayat Raj Institutions (PRIs) brought in through 73rd amendment have ensured women in general and from the marginalised groups in particular to participate in decentralisation process and thereby village and community development. Over and above several region specific Acts enacted by the state governments, the 73rd amendment to Constitution enacted in 1993 is a major strengthening pillar to decentralised process, which recognises the need for uplifting rural women along with other socially, economically and politically weaker sections of the society by making them part of administration and development. Government of India has been trying to achieve empowerment of women through various programmes and constitutional safeguards. Economic empowerment has been targeted or recognised through women component plan, financial assistance to self-help groups, establishment of women operated banks, colleges and universities specifically established for women, social empowerment being cherished through free education to girls up to certain levels, housing schemes, access to services, etc. Political empowerment is assured through reservation of seats for contesting elections at different levels, earmarking of funds under reserved category, etc. In PRIs, the provision of seats has been increased from 33% to 50% for women. Although the experiences in grass root politics over the past two decades do not give us rosy pictures, there are credible incidences of change in rural areas thanks to women’s empowerment. These incidences may be a few, but a beginning seems to have been made. In the caste and class ridden society that prevailed for long in India, women’s empowerment is emerging in different fields as a result of induced process or affirmative action (Makwana 2012). According to Aiyer (2002), reservations for scheduled castes/scheduled tribes (SCs/STs) are generally working well. And, although there is long way to go in changing the apparent empowerment of women into a real and genuine empowerment, reservation for women has opened the door to revolutionary changes of a political, social and cultural nature by empowering more than one million women through free and fair elections—a unique feature in the world.

Mishra (1997) observed that the reservation of seats for women in PRIs provides them an opportunity to enter into politics and to take active part in the formal political arena which deals with social and economic problems. According to Pai (2001) reservation is helpful to disadvantaged groups and backward classes (OBC) to identify themselves in the local governance and neutralize the upper caste and middle caste dominance. Another study by Hust (2002) examined the political representation and empowerment of women in the local
government institutions in Khurda and Nayagrah districts of Orissa and found that a majority of women candidates had contested for panchayat election through a reservation quota and very few (12.8%) of women contested in election by self-confidence or their own personal qualities.

Duflo and Topalova, (2004) utilized survey data from ‘Millennial Survey’ which covered 36542 households, 2304 villages in 24 states in the country including the random selection of reserved presidencies for women and they found that in comparison to unreserved Gram Panchayats (GPs), women leaders from reserved panchayats had provided more public goods (drinking water, roads etc.), and quality infrastructure. They observed that people were less likely to be corrupt in these reserved panchayats. A study by Chattopadhyay and Duflo (2004) found the reservation system to be helpful for adequate representation of women and for providing adequate delivery of local public goods to disadvantaged groups at the panchayat level. Munshi and Rosenzweig (2008) found that when the effects of caste are accounted for, women are more capable to provide services for their constituencies even though they have less education and experience. They found that reservation also reduces the likelihood that a numerically dominant caste will emerge in any constituency. They pointed out that equity advantage of any reservation system is that it favours historically disadvantaged groups.

Few studies have focused on negative points of reservation system. Palanithurai (1994) revealed that the participants feared that the women from upper caste and wealthy sections would not accept reserved category women and would not like increased number of women representatives from weaker section to local government bodies in Tamil Nadu. Panda (1996) in her study of village panchayats in Orissa found that woman representatives have entered into politics only due to the mandatory provision of reservation or pressure from their family members or their village community. Chattopadhyay and Duflo (2004) found that women elected to reserved seats are poorer than their male counterparts; they are less experienced, less educated, and less likely to be literate. A study by Narayan (2005) observed that women became members because the seat was reserved for them and not because of their role in public life, and most of them were unknown faces. Nilekani (2010) studied the reservation pattern in Karnataka GP system and found women presidents of GP to be powerless while, male members of their families or vice presidents of GP held the actual power.

Based on their study in Chitradurga district of Karnataka, Nagraj and Pallavi (2013) observed that reservation in PRIs had increased the number of women members and had helped the development of tribal women who had become aware of their voting power, duties and responsibilities of panchayat members and were being supported by their family members. As per the analysis made by Crook and Alan (2001), decentralisation contributed to increased political participation and representation in India and Columbia with mixed outcome in Philippines and poor outcomes in Brazil, Chile, Bangladesh, Ghana, Kenya and Nigeria. They observe that the decentralisation process in West Bengal and Karnataka had helped women, SCs and STs to participate in the panchayat activities although the men tended to dominate and both uneducated and SCs and STs were found engaged in meetings, contacting officials, joining associations, sending petitions, etc. An assessment of women’s empowerment through GPs made by Chandrashekar and Kadam (2012) in 25 GPs of
Shimoga district in Karnataka reveals entry of young and educated women in to panchayat elections most of them wanting to re-contest. Further, there was improvement in women’s social and family status, their contribution to society in terms of public services and developmental initiatives. But, Craig (2001) argues that although decentralisation has improved levels of public participation and accountability, it has done little to reduce rural inequality and poverty. Similarly, Behar and Yogesh Kumar (2002) based on their study of five districts in Madhya Pradesh opine that though constitutional provisions had helped women to move forward and demonstrate their capacities, any attempt to go against male dominance resulted in usurping of power at the ground level.

Despite many efforts to include the weaker sections into the mainstream, discrimination exists in many villages of the country. As put forth by Baviskar and Mathew (2009), although the scenario is changing, discrimination does exist and it could be in terms of making president and panchayat members sit on the floor, keeping aside cup and plates for their use (which are required to be washed by them), creating rift between them and supporting weak SC candidates in election to control him/her after the elections are some of the tactics used by dominant castes. This is because the 'formal institutional arrangements may not adequately reflect the democratisation of a society as there is distinction between making of a democracy and deepening of a democracy' (Jairath and Sajja 2009: 79 quoting Patrick Heller 2000:485). They therefore assign successful implementation of panchayati raj in Kerala and West Bengal to social and land reforms and mass mobilization movements. Satish (2012) in his study of two villages in Nellore district of Andhra Pradesh finds caste as a hurdle to the democratic spirit of decentralisation of powers and inclusion of the marginalised groups. So it is the social power that has been identified as element that tries to pull down the very idea of decentralization of political power. Palanithurai (2012) lists around thirty types of discrimination and practices of untouchability against Dalits in four sample villages of Tamil Nadu selected for his study. He found that Dalit women panchyat leaders were not allowed to visit GP office nor preside over gram sabhas. Their husbands were attending to office work as proxies.

Patil (2009) studied the power structure and participation of SCs/STs/other backward castes (OBCs) and women representatives in rural local government in Kolhapur district of Maharashtra. His study found that although women who were housewives had entered politics due to reservations, their role in administration was nominal and they were found to be dependent on their husbands for such activities. Lack of education, knowledge about panchayat administration, poor economic status of members and president enabled the dominant caste people to control GP administration as the latter were largely dependent on dominant castes for agricultural work. The study on dynamics of exclusion and inclusion by Singh (2009) covering panchayat members, officials and villagers in Agra district of Uttar Pradesh reveals that women in Uttar Pradesh have always remained on the periphery, which is due to illiteracy, proxy candidature, low status of women in family and society, early marriage, poverty, burden of domestic chores, etc. He quotes a women president in a sample village who did not know about the number of households in her village, whether panchayat collects taxes, name of block panchayat, her area, etc., all due to her illiteracy, inability and the low status that she faces in her village. However, Singh concludes that reservation had improved the bargaining power of SC women who have been using
panchayats for socio-political gains and are approachable to village women for their problems.

The Citizens' Report on Governance and Development, 2010 based on the review of State Finance Commission, State Election Commission, District Planning Committee and three centrally sponsored programmes viz., Mahatma Gandhi National Rural Employment Guarantee Scheme (MGNREGA), National Rural Health Mission (NRHM) and Jawaharlal Nehru National Urban Renewal Mission (JNURM) concludes that governance is far from effective and there is long way to go before decentralised local governance can produce real gains for the marginalised sections of the society, produce inclusive development and facilitate democratic practice.

In many cases inclusive development is not possible because of lack of awareness about panchayat activities. Rao (2012) from a case study of four villages in Andhra Pradesh finds most of the leaders from the excluded groups to be new entrants who lacked awareness about panchayat Acts, provisions, schemes and projects. Therefore Bhat and Venkat Ravi (2012) stress the need to network among the SCs, STs and women in the PRIs to enable them to share their experiences and, work out combined action plan to realise their needs in an effective manner. Patnaik (2005) found that elected representatives were not able to properly articulate interests specific to their group or even exercise their own judgment in panchayat decision making, which he asserts makes the very notion of representation of the marginalised groups through affirmative action questionable. Based on the study of four GPs in Dhekanal district of Orissa, Patnaik concludes that affirmative action has not ensured the effective representation of the disadvantaged groups in the panchayats in terms of their participation, responsiveness to the interests of villagers and accountability to panchayats.

Das (2013) in his study on Dalit and tribal leadership in Gujarat found that only one-third of the Dalit women were able to win the panchayat elections independently. He finds education, experience in social issues, motivation to bring development to their community, prior performance in panchayats, family support, personal relation with villagers, economic stability and family's political contacts as factors responsible for women to access panchayat positions, which indicates that the road to success is not easy for those without such background. Thorat (2002) also feels that despite several constitutional provisions, the problem of caste-based violations of human rights in modified form continues to persist leading to exploitation of Dalits, especially in rural India as the underclass are yet to be fully politically mobilised against the dominant class.

Women Empowerment and Socio-Economic Condition

Empowerment has several other dimensions like social empowerment, economic empowerment and political empowerment. The importance of socio-economic, psychological and political status of representatives in their entry into panchayat administration cannot be denied as these factors could influence their interests to contest in panchayat election and also their active participation. Vaidya (1997) examined the role of PRIs in women's development for effective participation in decision-making process. Study concluded that the women take a longer time to prove themselves equally capable as men. The psychological empowerment of women representatives have been studied by Narasimhan (1999) who concluded that women representatives had gained awareness
about their responsibilities, information of schemes and motivation by their involvement in panchayat administration. A study by Bhaskar (1997) conducted on women members of 84 GPs in Kerala found that apart from education and land holdings, other variables like age, occupation, and income are crucial for women to enter into politics. Arora and Prabhakar (1997) in their study focused on why some females are more interested in politics and found that women representative who were highly educated and were from upper caste or dominant castes were more interested in politics. They also pointed out that woman representative who often met and discussed with their friends had significant political interest. Hust (2004) and Dahlerup (2005) argue that women representative do not show the possibility of active participation in rural local bodies in India. The study states that most of the women lag behind, because they are uneducated and are dependent on men in rural local bodies. Due to differences in socioeconomic status, occupational choice and family responsibilities in comparison to men, women candidates are likely to have greater difficulties in becoming eligible and aspiring political candidates (Alexander, 2007). Further, Nilekani (2010) found domestic violence against women, wage disparities, sexual harassment and abuse, discrimination in the supplement of nutrition, and low female literacy rates to be widely prevalent in India.

Empowerment of Women through Capacity Building Programme
Lack of awareness is a key weakness that stands as stumbling block in the development path at panchayat level. In addition, the power and authority of upper caste communities also restrict the SC/ST women elected representatives to perform their roles and responsibilities at panchayat level. In some parts of India, SC/ST representatives are denied to enter the panchayat office and when they win the election, they are denied to take charge of the office or sit in their seat. The voice of SC/ST women is not fully represented in the political ground. The achievement of gender equity and equality is one of the major challenges in Indian society. The empowerment of SC and ST women has emerged as an important aspect of the ongoing socio-economic and political transformation in India. Efforts have been made to empower the GP women representatives through imparting training. Capacity building programmes are felt necessary as most of the SC/ST women elected representatives are found to be illiterate and have only primary school level education.

Although social inequalities are fading under the provisions made under the Constitution of India and the public policies aimed at inclusive development, the capacity building programmes can help members, particularly women belonging to SC, ST and Other Backward Castes (OBC) to fight against the disadvantages and enable them to participate in the local government process with confidence. The Expert Committee on Leveraging Panchayats For Efficient Delivery of Public Goods and Services (2013) in its report "Towards Holistic Panchayat Raj: Twentieth Anniversary Report" states that 'it is not an absence of political will that is making panchayat raj stumble so much as the unevenness of panchayat raj outcomes that is stalling the evolution of the required political will'. And, deficiencies in capacity-building contribute to their sense of helplessness. Even when some training is imparted, much of this training bears little resemblance to the tasks that panchayat representatives are permitted to undertake in the absence of effective devolution. There being little integration between the line departments and the panchayats, many, perhaps, most panchayat representatives get little opportunity for hands-on learning on the job. Moreover, line department officials are rarely trained to work in consultation with PRIs. On
the contrary, the atmosphere in most line departments discourages the evolution of a working relationship with elected representatives, except perhaps at the ‘sarpanch’ level.

Baviskar and Mathew (2009) based on the case studies from 12 states on local governance stated that ‘India is on the crest of transformation. In the next decade or so the SCs, STs and women are bound to make further progress in their social status, leadership role, economic position, educational level and political awareness. This will enable them to claim and acquire a legitimate share in the power structure. Local government is only the beginning and for many it is a nursery of leadership. With elections every five years a churning process has begun’. But, is this possible with only creamy layer of SC/STs getting benefits of reservation and the poorest unaware of the development schemes (Jairath and Sajja 2009), loans, scholarships, etc. There is a need to increase facilities in education viz. hostels, 100% free school education, bus pass, books and uniforms, etc. Awareness and access to information are necessary for transparency in local government (Jairath and Sajja, 2009).

According to Joshi (2009), there is a total lack of understanding about the provisions of the panchayat Act among SCs, STs and women representatives. Aiyer (2002) states that the arrangement for training of elected members of the panchayat at different levels and of administrative and technical staff attached to panchayats fall far short of requirement at present. He argues for an exponential increase in the quantum of funds made available for such training as well as deep consideration to the overall training requirements of both elected members and panchayat staff. According to Aiyer, there is no need to concentrate on training programmes for the weaker sections and women as IGNOU has evolved a multi-media model for extending training on a mass scale through the use of both traditional and innovative forms of mass communication. One needs to test the efficacy of these methods as it is also necessary to have personal touch and proximity while addressing the needs of vulnerable groups who are hesitant to come forward. Behar and Aiyer (2003) based on ground experience of the working of panchayats strongly highlight the continued need for effective capacity building among members of panchayat.

The State Training Institutes conduct training programme for panchayat representatives in different states regularly. Some NGOs and private institutes are also organizing training programmes to help GP women representatives to become more self-confident and to impart knowledge about their role and responsibility. Mahi Pal (2003) and Vyasulu’s (2004) work focus on empowerment of women representatives through capacity building programmes. They conclude that capacity building/training programme is very important to women representatives for understanding their role and responsibilities, mobilization of own resources; preparation of action plan, budget, and sharing their experiences. Narayan (2005), studied capacity building programmes for the elected representatives at the GP level of three states (Kerala, Tamil Nadu and Madhaya Pradesh) in India. He observed that many panchayat representatives got acquainted with their powers, responsibilities, functions and limitation through capacity building programmes. In addition, the membership in SHGs and political parties was an important factor as PRIs were often discussed in the meetings of these organizations. Majority of reserved women representatives were dependent on their sons or husbands to understand the rules and procedures of PRIs in Madhya Pradesh. They had low levels of awareness as compared to men therefore their participation in schemes/programmes, development planning was found to be lower than the men at the local level.
Women Representatives and Decision-Making Power

According to UNDP 'development can be inclusive - and reduce poverty - only if all groups of people contribute to creating opportunities, share the benefits of development and participate in decision-making' (www.undp.org). Inclusive development ensures the participation of marginalised and excluded groups in the development process, wherein they become one of the stakeholders. Decentralization fits in to inclusive development structure as it itself is a model of development, which enables empowerment and upliftment of the marginalized and the poor guaranteed by institutional framework. The affirmative actions of the governments enable their participation. The very purpose of decentralisation is to develop plans for activities at the local level with the participation of all the sections of the community represented through the voices, for example gram sabha in India. Since decentralisation facilitates democratic governance that is representative, accountable, transparent and accessible to the public, it is likely to embrace inclusive development. It has been introduced in countries across the world as a mechanism to improve governance and service delivery.

The National Policy on Education, Government of India (1986) states that, ‘Women become empowered through collective reflection and decision-making. Its parameters are building a positive self-image and self-confidence, developing the ability to think critically, building up group cohesion and fostering decision-making and action; ensuring equal participation in the process of bringing about social change; encouraging group action in order to bring about change in the society; providing the wherewithal for economic independence’. Empowerment of SC and ST women representatives is aimed at enabling them to think and act freely, exercise their choice to fulfill their in the interests of the community at large and give better service to people without any hesitation.

The United Nations Development Programme (1996) adopted gender perspectives in development goals, which includes a commitment to promoting the empowerment of women in political and economic decision-making at all levels from the rural local bodies to national government. It suggested that empowerment is promoted through increasing women’s decision-making powers, the support for income generating activities and provision of skills and education to women. Behar and Kumar (2002) studied decentralization in Madhya Pradesh through a survey of 60 GPs from five districts of Madhya Pradesh. Their study found that in most of the cases, the decision to contest for elections for women representatives was taken by their husbands, father-in-law or brothers. They observed that whenever the seat was declared as reserved for women, the husband of women representative, ex- panch (member) or ex-sarpanch (president) of panchayat, decided to contest women representatives. According to them the dependency on husband is necessary because most of the women representatives are unable to handle public affairs mainly because of their illiteracy, lack of confidence, awareness or experience, and general isolation from public life.

Women Empowerment and Political Participation

Political participation rates are an indicator of governmental legitimacy, citizens’ support for a democratic form of government, and the sense of collective responsibility and civic duty that are associated with consolidated and stable democracies as expressed by Desposato and Norrander (2005). According to Mansuri and Rao (2013) decentralization strengthens
citizens' participation in local government by instituting regular elections, improving access to information by fostering mechanisms for deliberative decision making on the demand side and enhances the ability of local governments to provide services by increasing their financial resources, strengthening the capacity of local officials and streamlining and rationalizing administrative functions. Political participation is essential for any representative/leader of the people.

Democracy implies equality for all human beings, men and women. Equal treatment to women in political life, to be meaningful and effective should start from the grassroots level. Political journey is not smooth for women GP members in a patriarchal and caste-ridden society. Bhaskar (1997), Besley, Pande, and Rao (2007) found that the political membership and their families’ political history are helpful for women to enter into politics. Palanithurai (1994) pointed out that women members face lot of problems in the village panchayats of Tamil Nadu. The male members sometimes do not cooperate with elected women ward members and it is generally a difficult task for women to balance their housework and their duties as an elected official. Rashimi (1997) pointed out that in most of the cases women are housewives and representatives who entered first time into politics and most of them are illiterate or educated up-to primary level. Burns et al (2001) found that while men representatives spent more time on political participation, women spent more time on housework in a day and women representatives had little time for political participation.

Finally the scholars like Mishra (1999) and Chattopadhayay and Duflo (2003) have used the word ‘political proxy’ for the women representative who is vested only with the formal power while the real power still resided with the male members of their family. Another study by Kulkarni (2011) observed that women representatives are not comfortable in working at the panchayat level due to presence of large number of male representatives and officials in Maharashtra and Gujarat. This poses challenges to women to come out and speak in open and participate in public activities. The study noticed that the factors which constrain women to participate in the local governance include design of the programmes taken up by GPs, which are handled comfortably by men rather than women, the rules for membership of associations which allow more male participation, lack of support from the household, women’s own under estimation of their skills and capacities to perform, holding meetings when women are at work in the field or when they are busy with domestic work.

Few studies discussed building of political career in the local bodies by women. Vaidya (1997) observed change in behaviour and attitudes among rural women after their entry into politics. Vijayalalakshmi and Chandrashekar (2002) pointed out that a majority of male presidents wanted to pursue a political career and they thought panchayat president-ship was the first step in this direction. But, a majority of female presidents did not aspire for any political career and were doubtful about their repeated participation. So there are significant differences between expectations of male president and female president and also their attitudes regarding political involvement at the panchayat level. Duflo and Topalova, (2004) pointed out that people were less satisfied with the public goods provided by the women leaders and it was the main reason for women rarely winning elections even though they were effective leaders in the GP.
Kaushal (2010) states that women are politically marginalized in India and are capable of providing good service to the people and show good leadership quality if they are given time, support, resources, training and freedom to work. A study by Gochhayat (2013) on 125 women respondents from five GPs of Hindol Block in Dhenkand district of Odhisha found political participation of women in the functioning and the electoral process of panchayats as not satisfactory. A parochial culture, patriarchal society and low levels of education were responsible for women's backwardness in political participation. A study by Rai (2013) considered nine concepts for evaluating the impact of gender quota in the political empowerment of women, which included political knowledge, political interest, political participation, political trust, political contacts, political protests, attitude towards the role of gender, public projects and confidence. This study revealed that the gender quota had a very positive impact on the political knowledge of women as most of the elected women representatives had good knowledge about the political activities and panchayat works, which in turn enthused these women to become more interested in political works.

'In spite of constitutional rights and positive outcomes reported elsewhere, there are reports about continued resistance to women's power with incidences of backlash and violence and efforts to unseat them through no confidence motions' (Sharma 1998; Ramesh and Ali 2001). Vijayalakshmi and Chandrashekar (2002) based on their study on participation of women in Karnataka reveal that although there was enhanced representation and improvement in political status of women in local government, it had not translated into effective outcomes due to gender and other social differences. In the sense, they lacked power to execute works as active participation of women was not tolerated by men. Chhetri (2012) in his study on Sikkim found low participation of women in gram sabha, but as per the perceptions of the officials, he assumes that there is no proxy representation. The level of awareness about panchayati raj was also not wide spread. The study by Vidya (1997) shows that female representatives in Karnataka were better informed as compared to representatives in Haryana. However, everything is not dismal. Despite the social resistance, Das (2013) identifies Dalit panchayat functionaries who used their rights to grow into role models in many villages across India.

**Conclusion**

The participation of women, especially those belonging to weaker sections, in GPs has increased after the implementation of 73rd constitutional amendment. The participation of women representatives including members from weaker sections appears to have increased substantially over the years mainly on account of affirmative action. But, the political journey is not smooth for women in a patriarchal and caste-ridden society on account of which they face a lot of problems in the village panchayat.

The review of literature suggests that affirmative action by the government across the world has brought in significant changes in rural political life (Aziz 2000, Chattopadhyay and Duffio, 2007) though there are a few studies, which claim that reservation or affirmative action has not resulted in desired outcome either because women are proxy by their spouses or children or by powerful political interests in the case of SC/ST candidates and due to differences that exists between communities at local level (Pai 2001). The fact that women are proxied by their husbands or other influential persons in the village is also brought out by others (Mohanty 2009; Singh 2009; Jairath and Sajja 2009; Ramesh Kumar
However, in cases where there is limited influence of decentralisation on women’s empowerment, upliftment of reserved categories and minorities, over time the affirmative actions are expected to enable these groups to assert themselves more effectively (Manor 1999).

Further the review points out that women are less corrupt (Baviskar and Mathew 2009) as against its high prevalence or failure to prevent it earlier (Chakraborthy and Bhattacharya 1993; Vyasalu and Vysalu, 1999) and they try to provide basic services in the villages and attend to the needs of women (Chattopadhyay and Duflo 2004; Sivanna 2012). Their participation in the local government facilitated by affirmative action has led to inclusiveness and empowered them politically (Jairath and Sajja 2009; Das 2013) (though only a minority of them have gained in several forms) and economically and improved their self-confidence and social status. Due to such action the number of women in panchayats has also increased although it does not guarantee their participation (Kundu 2009). Education and social background of the members are found to be the factors motivating empowerment and participation while poverty and continuity of faithfulness to the dominant castes are obstacles (Baviskar 2009; Jairath and Sajja 2009). There are also evidences that political interests and social influences restrict entry of some women into politics, affect decisions on who should participate and their continued participation (Ananthpur 2004; Mukhopadhyay 2005). The literature indicates that real empowerment is possible only when the marginalised viz. SCs/STs and women influence decision making, which is a sign of their being included overcoming their earlier state of exclusion (Bhaviskar and Mathew 2009). However, no major improvement was found in the living conditions of the Dalit in GPs with Dalit presidents (Palanithurai 2012) and their inclusion in political sphere did not make much difference to their individual or community lives (Satish Kumar 2012).

The fact that the dependence of weaker sections on the dominant castes in village for labour and financial needs makes them submissive and non-asserting in the case of panchayat activities has been discussed and identified by researchers (Joshi 2009, Patil 2009). There is demand for creating employment avenues, distribution of land rights, creating capacity to learn and participate, organising and networking among women members, etc. Majority of the studies stressed the need for capacity building among elected representatives as many members are new entrants and illiterates (Bhat and Venkat Ravi 2012; Rao 2012; Aiyer 2002; Raghunandan 2012; Palnithurai 2012; Sivanna 2012). Many studies indicate that reservation has given the marginalised communities a sense of empowerment though they are yet to reach an equilibrium level. In the next decade or so the SCs, STs and women are bound to make further progress in their social status, leadership role, economic position, educational level and political awareness (Baviskar and George 2009). Overall there is still a long way to go for achieving the objectives of the 73rd amendment. Since the motion has already been set in right direction with mandated guidelines and provisions, one can hope for positive outcomes in the years to come.

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Development-Induced Displacement and Gender Injustice: Some Critical Reflections

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Abstract
The development projects that most of the countries in the world witnessed after post-colonial period have led to alienation and deprivation of large sections of population through the process of displacement. Doubtless, it has brought a loss to all but the magnitude of loss is more severe in case of women than men, as they are disconnected from nature which is the main source of survival for them. Women’s use rights over certain lands, which gave them autonomous spheres of control, are wiped out without compensation. Moreover, the losses of forests and common property resources have destabilized women’s income and relative social status. The employment generated by the projects comes with hazardous working conditions and low wages, and without job security, pushing more and more women into the informal sector. Along with economic loss, it has directly and indirectly affected women’s health, their food security and status in society. Here, the issue raised in the paper tries to interrogate what kind of loss the women faced due to displacement; what kind of policy initiation is being taken for the betterment of women in case of displacement; and what is the role of women in displacement movement. This paper, based on the review of the existing literatures and authors’ own experiences, attempts to reflect on the above issues.

Keywords: Displacement, Gender, Globalization, Injustice, Women’s movement

Introduction
In the era of globalization, the issues of development, displacement and rehabilitation vis-à-vis local communities have acquired a special significance. The states in the world in their quest for development, caused displacement and resettlement of their populations (World Commission on Dams, 2000). Every year roughly 10 million people are displaced by development projects particularly by two development sectors such as dam construction and urbanization/transportation throughout the world (Cernea, 1995). In the last decade, the magnitude of displacement of peasant communities in Africa, Latin America, Central

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Asia, South Asia including India and China has increased enormously (Cotula, Vermeulen, Leonard, and Kelly, 2009; Pearce, 2012). In India alone, following Independence, the development projects have displaced roughly sixty million people in the last sixty years. Out of the 60 million people displaced, 75 per cent are *adivasis* and 25 per cent are *Dalits* (Fernandes, 2008). Displacement deprives people from many things. It deprives them from their lives and livelihoods such as homes, lands, productive assets, familiar environments to which their skills and practices are attuned, community networks and a sense of local belonging. While displacement affects all, it is more severe for women than men, irrespective of caste, class, religion and region. Everywhere women bear the brunt of the forced move a lot more than their male counterparts (Mehta, 2009). While there is an overall negative impact on the poor, women and female children, they are more affected due to intra-household inequalities that already exist in the levels of literacy, health, nutrition etc. These disparities are accentuated at the times of economic stress (Sen, 1981).

The gender inequalities that endured before displacement get accentuated in some form or the other, among various social inequalities created by developmental processes (Kabeer, 1994). Moreover, the loss of forests and common property resources leads to the scarcity of minor forest produce and fuel wood, and destabilises women’s income and relative social status. Mechanization, an inseparable part of industrial development projects, also has an impact on women. It has only intensified women’s unemployment (Lahiri-Dutt, 2001; Fernandes, 2007). Moreover, the employments generated by the projects have hazardous working conditions, provide low wages, and are without job security. Hence they push more and more women into the informal sector (Lahiri-Dutt, 2001). Along with economic loss, it has directly and indirectly affected women’s health, their food security and status in society. Here the issue raised in the paper tries to interrogate what kind of loss the women faced due to displacement; what kind of policy initiation is being taken for the betterment of women in case of displacement; and what is the role of women in resistance movement against displacement. This paper, based on the review of the existing literatures and case studies, attempts to reflect on the above issues.

**Resettlement and Rehabilitation Policy: History of Injustice**

India got its first National Resettlement and Rehabilitation Policy (NRRP) in 2003. Before that there were as many as five draft policies. Each Draft policy was an improvement upon the previous policy. In fact, earlier almost all the projects had their own rehabilitation and resettlement policies. There was no such a pan India policy. It was published in the Gazette of India, Extraordinary part-I, section-1 on 17th February 2004. India promulgated its second national rehabilitation policy on 31st October 2007, known as National Rehabilitation and Resettlement Policy, (NRP) 2007. The preamble of the policy has laudable principles. It stresses displacement and deprivation to be minimized. It considers that monetary compensation is inadequate to get over the traumatic consequences of displacement and prescribes that resettlement and rehabilitation ought to be intrinsic to the development process (Fernandes, Chetri, Lama, & Joseph, 2012; NRP, 2007). It states the need to rehabilitate ‘those who do not have legal or recognized rights over the land or upon which they are critically dependent’ (NRP, 2007). It includes landless labourers and petty business persons among the displaced persons (DPs). It prescribes social impact assessment (SIA) mandatory. It speaks for a tribal development sub-plan where the tribal DPs predominate. It highlights a time frame for implementation and grievance redressal mechanisms (Fernandes
et al., 2012; NRP, 2007). In response to the various national level policies on resettlement and rehabilitation, different state governments had brought out their respective policies in different periods. In course of time, like any other state, the Government of Odisha announced its Resettlement and Rehabilitation policy in 2006, known as Orissa Resettlement and Rehabilitation Policy 2006. The policy is claimed to be among the best in the country. The policy came as a ‘knee-jerk reaction’ to the Kalinganagar police firing and several other high profile movements gaining momentum. However, the policy falls short of the campaigners’ demands (Mathur, 2006b).

Inadequate social planning ensured high social tension resulting in a negative impact upon women that in turn increased the risk of displacement. Till the National Policy 2007 came to exist, even the word gender failed to acquire a significant place in the policy. No steps were being taken to provide justice to those women affected earlier by various development projects. The policy violates constitutional provisions. It contravenes Article 15 (1) on the grounds of non-discrimination against gender. It also flouts Article 39 (a) of the directive principles of state policy which prescribes securing equal rights both for men and women on the grounds of adequate livelihoods. These constitutional provisions have failed to provide justice to women in case of displacement. There is wide gap between the Constitutional justice and the reality. Women have greater poverty, lower literacy and education and fewer rights. Moreover, they are marginalized socially and economically and exposed to violence and abuse. In this context, Sahaee (2003) argued that first national rehabilitation policy is ‘gender blind’ as it recognizes the male as the head and sole deciding factor for compensation and rehabilitation. While extending rehabilitation benefits, it does not mention any separate criteria for women. The policy gives the impression of being a response to liberalization. This is evident, among others, from the extent of land most states acquired for private companies. For instance, Odisha had acquired 40,000 hectares for industries during 1951-1995 and planned to acquire one lakh hectares in a decade (Fernandes & Asif, 1997). The policy can at best keep the victims poor and at worst push them below the poverty line and it will legitimize impoverishment (Fernandes, 2004).

Regarding gender issue, the National Rehabilitation and Resettlement (R&R) policy 2007 is less sensitive. It continues to include unmarried sisters or daughters in the family while an unmarried adult son is regarded another family for providing compensation (Fernandes et al., 2012; NRP, 2007). Fernandes (2012) also states that both the two R and R policies did not deal with the issues concerning women. These policies emphasize land acquisition. They can at best reduce resistance, but cannot rehabilitate people.

While NRRP 2003 was gender blind and the NRP 2007 was less sensitive to gender, the Odisha rehabilitation policy was gender biased. In the context of rehabilitation, one of the most glaring instances of gender disparity has been the issue of compensation. R&R policy often gives compensation or land to major sons, but major daughters are excluded from such provisions. Odisha R & R policy considered the unmarried women above 30 years as separate units for R&R benefits. Although Government emphasize gender equality on all other aspects but it shows gender-bias on extending R&R benefits to the girls above 18 years of age in contrast to their male counterparts.
In case of a woman divorcee, to get compensation benefit is another problem. The clause of proving herself as a divorcee in order to get R&R benefits is real problem for the women of lower social strata as no formal divorce is sought in such cases. It is also problematic for a divorced woman to get a divorce certificate in order to be eligible for compensation. It is the complex legal structure in which a woman divorcee faces a lot of difficulty to obtain a divorcee certificate. Even nothing has been mentioned about separated women. The gender dimensions of displacement have not been closely studied in the state of Odisha. Besides, there is another problem evident in the state policy. Though unmarried daughters above the age of 30 years, widow and divorced are considered as separate family at the time of compensation, they are not considered separately at the time of providing employment opportunities.

Asian Development Bank’s (ADB) R&R policy of 1998 has recognized gender issues in resettlement. The Bank feels that the need and problems of women affected by relocation are likely to be different from those of men particularly in terms of social support, services, employment, and means of subsistence for survival. Under unit of entitlement, the ADB policy recognizes that the households headed by women are to be recognized and compensated equally with households headed by men. Widowed women or divorcees living within male-headed households and having no legal rights to land may be considered as separate units for relocation purposes (Asian Development Bank, 1998). All these gender issues prescribed by ADB were ignored by the Odisha state R&R policy 2006.

Compensation in India in the Land Acquisition Act, 1894 (as amended in 1984) is the only legal instrument available in the country to address the issue of development-induced displacement. Compensation and rehabilitation benefit for the displaced people in the project is determined on the basis of ownership to land as per the said Act. A serious weakness of the Act is that it only offers cash compensation to those who have land records of their lands that were acquired for the project. The resettlement and rehabilitation of project affected people does not fall within the scope of the Act. The Act recognises only the individuals’ right, not collective or community rights and hereditary rights. Again the Act recognises only the legal records of rights. Thus, those who have depended upon government land for generations but do not have any records of rights, or traditionally depended on the common property resources (CPRs) or have survived by rendering services to the village community as a whole, are called encroachers and they are not entitled to get any compensation according to the present legislation. In case of women, most of the time they depend on CPRs to run their families and invariably face loss of right to access those resources which may be considered as gross injustice meted out to them. Ganguly Thukral (1996) has pointed out that the Land Acquisition Act, 1894 is gender-biased and merely reinforces the existing situation of women’s lack of ownership of land and property. She further remarks that the notice of acquisition served on a woman in the absence of any male person in the family is not legal. All R&R policies in the country go by the ownership of land or property in case of working out compensation, and reflect a similar gender bias.

Mehta and Srinivasan (2000) have noted that as men are treated as heads of households, compensation, either cash or land, is only awarded to them. As compensation was not deposited in the joint account of both male and female, the compensation given used to be misappropriated by male sometimes. Women are not considered to be farmers or house
owners. In this situation, single women and widowed women are particularly vulnerable. Similarly, R&R policy often gives land to major sons, but major daughters are excluded from such provisions.

Both National Thermal Power Corporation (NTPC) and Coal India Limited (CIL) formed their own R&R policies in 1993 and 1994 respectively for the rehabilitation of displaced people. Both of the policies can be argued to be gender biased because none of them considered women as separate units for R&R benefits except the policy of CIL that claims to have made special attempt to ensure women in getting adequate access to income generating opportunities offered under the policy. In case of Sardar Sarovar Project, the Maharashtra government considers major unmarried daughters as project-affected persons for R&R benefits. The Gujarat government has included all women widowed after 1980 as separate family to benefit from the rehabilitation package in the Sardar Sarovar Project. However, the women widowed prior to 1980 will continue to be dependents of the head of the family.

In the State of Odisha, the major industrial projects (Rourkela Steel Plant and National Aluminium Company Limited), thermal power projects (Talcher Super Thermal Power Project under NTPC and Ib Thermal Power Station, a State PSU) and coal mining projects (under Mahanadi Coalfields Limited, a subsidiary of Coal India Limited) have adopted their own R&R policies differing from each other. However, it is glaring to mention here that none of the R&R policies have gender perspective to address gender dimension of displacement. In every Project women were not recognized as a separate entity. Even widows, unmarried adult daughters and deserted women were considered as dependents. The State R and R policy is even more gender biased. If a couple holds property separately, they will be considered one unit and will receive one package. In this situation, a woman will have to forego her right to the package as it will be given to the head of the family i.e. to the man. A deserted woman has not even been referred to in any of the state policies.

The laws, policies and government procedures also serve injustices to women. It is the consequence of the unequal social and political set-up that men get preference over women in the matter of land, security, physical space, food intake, jobs, etc. within home, society and in the government. These injustices accentuate in the event of a critical situation like displacement and resettlement.

**Impact of Displacement on Women**

If we reflect on the position of the displaced women in the light of Cernea's conceptual model of 'impoverishment risks and reconstruction', we find that all the sub-processes like landlessness, joblessness, homelessness, marginalization, food insecurity, morbidity, social dis-articulation and loss of access to common property get aggravated in their case. For affected communities, the development projects have widened gender disparities either by imposing a disproportionate share of social costs on women or through an inequitable allocation of the benefits generated.

Transitional phase brings a great loss to women as all developmental activities stops in the project area. Displacement brings loss of access to common property resources and hence a loss of access to livelihood. Many a times, loss of fodder leads to loss of livestock rearing that brings an additional burden of workloads and responsibilities for women. A study on
impact of displacement on people in seven projects in Odisha found that due to declining access to land and other common property resources, women’s productive activities that they usually carried out at home such as livestock rearing, kitchen gardening, fishery, poultry or petty business etc. got disrupted which adversely affected their status in the family. They lose their earnings from forest and other common property resources and other non-farm activities like handicraft, cottage industry, and livestock rearing (Pandey, 1998a).

When we visited IB Valley Coal field in 2012, the women, complaining about their present circumstances said that life prior to displacement was hard, but at least there was water available from the local river, and fuel and fodder available from the forests. Now the mining operation has spoiled the water, which in any case was too polluted for consumption, and has appropriated the forests. Loss of access to traditional sources of livelihood marginalizes women in the labour force. A study carried out by Fernandes and Raj in NALCO, of Damanjodi in Koraput reveals that out of 443 jobs created, only 25 were provided to women, all of whom were widows or otherwise single and were, as such, considered heads of families (1992). It is also observed that the tribal women who used to work as agricultural labourer now shifted to act as housewife or non-farm labour.

In displacement, when men migrate for job to other areas, women’s emotional stress accentuates. Control of women’s sexuality becomes a serious issue. It increases the pressure of women in living alone. Poverty and lack of any other income-generating activities increase women’s involvement in prostitution although enough empirical data is not available to substantiate this. ‘Displaced women in Assam and Manipur have increasingly been forced into prostitution in order to support their families in the absence of husbands who have left in search of work’ (Internal Displacement: Global Overview of Trends and Developments in 2009, 2010, p. 78). This has disastrous consequences for old people when a combinations of factors like economic stress, migration and break down of family structure appear together and it makes the life of old parents insecure.

A Tata Institute of Social Sciences (TISS) study reveals that in case of Sardar Sarovar Project, the per capita intake of calories among some relocated people have shown a fairly significant drop. This is due to the low crop productivity and lack of employment opportunities in the resettlement area (as cited in Ganguly Thukral, 1996)). The same was observed in case of many project sites in Odisha. The study on Kalinga Nagar Industrial Complex reveals that most of the agricultural lands near the plants construction sites remain uncultivated. A local farmer pointing out the issue observed as under:

‘We are not getting enough water as we got earlier for our land because the water near the plant construction sites is dried up due to the plant construction. Our Pottas and Nallas have been dried out due to the industries. We are not able to cultivate paddy, mung and biri and peanuts due to lack of water. We have left our cultivation. Hence we have to depend on the food supplied by the project authority as resettlement assistance. But most of the time it is irregular and some cases they have stopped the assistance’.

Sanitation is a major problem specific to displaced women. A study on the impact of displacement in Odisha reveals that NALCO has provided housing without toilet facilities to
the displaced persons. Thus, they were forced to use a plot that the neighbouring village had set aside for pasture. Quarrels were frequent and they were mainly between women (Fernandes & Raj, 1992). It is an embarrassing experience every day. Similarly, the study of impact of displacement on people by Pandey (1998a) in seven projects in Odisha such as Rengali Irrigation Project, Upper Kolab dam project, Talcher coal mining projects, Ib valley coal Mining projects, NALCO, Hindustan Aeronautics Limited, and Ib Thermal Power Station found that the resettlement colonies had very little housing land, which resulted in overcrowding, loss of privacy and proper sanitation; thereby women were worse affected during call of nature.

Displacement has significantly decreased the women’s participation in development activities in villages. Fernandes and Raj (1992) have found strong gender biasness in job offering as most of the jobs go to the men in NALCO project. Similarly, displacement has resulted in the exclusion of an increasing number of women from active participation in the productive process. This occurs in two ways. First, the dispossession of women’s participation in the jobs which existed before displacement and the second is, less number of jobs offering to women in the post-displacement period. In our study of the Kalinga Nagar study, it has been revealed that a few women, particularly the kith and kins of the police firing victims have got employment in the projects. Majority of the women have been deprived of getting jobs in the projects. However, the jobs provided to the women are of low wage. In our study of IB valley area it was observed that there has been a reduction of 20% of women’s participation in developmental activities due to lack of time and high stress.

Parasuraman (1993) in his study on impact of displacement on women in six projects- Bolani Iron Ore mines, Durgapur Steel Plant, Jawaharlal Nehru Port, Maharashtra II Irrigation, Upper Krishna Irrigation project and Sardar Sarovar dam reports that women not only suffered in terms of poor health and malnutrition, they also lost the capacity to provide a secure future for their children. By engaging in seasonal migration in the absence of other alternatives, they have denied access to their children to school, health, child welfare, preschool and other welfare services. A study by Fernandes and Raj (1992) mentions that in NALCO project of Damanjodi in Koraput district of Odisha, the percentage of literacy has gone down from 22.63 % before displacement to 18% after the process and it is only 3% for girls. It has also resulted in many children dropping out of school. Does lack of access to or no access to education for the children lead to a sustainable future to the parent and for their children? When displacement gives an insecure future not only to women but also to their siblings ‘does it not represent an injustice to future generation?’

Displacement sometimes impinges on the social status of women. When women do not have work both in terms of domestic and outside, it can lead to serious consequences. Ray (1998) in her study on displacement in Talcher Super Thermal Power Project finds that women of both large and small agricultural farmer families have little in their domestic work during the resettlement period. Women did not have enough paddies to process and distribute. They could not celebrate most of their religious rituals since the rituals were all related to agriculture. They could not keep the larger community ties through the horizontal exchange of food stuff, most of which remains rice-based. Their contribution to the family economy, whether they worked as agricultural labourers, or managers of paddy inside the house, was not replaced with anything else. Deprived of access to land, forest, and non-
wood forest products as a consequence of displacement, women no longer remain equal partners to men. This results into the loss of their freedom in social matters, their independence in economic matters and almost no gain in the political and educational fields of social development. It increases the women’s dependency on men (Chauhan, 1990 as cited in Ekka & Asif, 2000).

Tribal women who are deprived of the resource that is the basis of their relatively high status, experience downward economic and social mobility. Dependence on men grows further among other women whose social status is not the same as that of the tribals (Menon, 1995: 100-101). In India for example, women may have use rights over land and forests, but are rarely allowed to own or inherit the land they use. Given the gender-blindness of the planning process development projects typically build on the imbalance in existing gender relations. For affected communities development projects have widened gender disparities either by imposing a disproportionate share of social costs on women or through an inequitable allocation of the benefits generated. Women have the responsibility of collecting fuel, wood, fodder, and minor forest produce and water for their family. As women have no rights on these resources, thus, their loss of access to these resources is seldom focused upon when displacement takes place.

Parasuraman’s (1993) study on the impact of displacement on the social and economic condition of women by six development projects found an important but serious aspect that is highlighted by some scholars that any loss of access to traditional sources of livelihood such as land, forest, sea, river, pasture, cattle, and salt-pan-land marginalizes women in the labour force.

**Women’s Movement against Displacement**

Deprived of justice from the legal and political structure and facing severe consequences as a result of displacement, women find no alternative way but to protest against their historical injustice. Women many a time have been played significant role in major displacement movements and against the forceful appropriation of lands, resources and other assets. Sometimes they have taken leading roles in major displacement movements against development projects like the Sardar Sarovar projects, Tehri and Maheswari dam projects, etc. Even in major protest movements against projects like Bailapal, Netarhat and Enron thermal power projects, women spearheaded the movements. Women possess a worldview quite different from men. Men are apt to be attracted by short term benefits like getting cash for their land, but women generally have a long-term perspective (Hemadri, Mander, and Nagaraj 1999).

In Odisha, the participation of women in resistance movements against displacement is remarkable in case of the Ib Valley Coal Mining Project. Women also have taken quite a significant role in the POSCO movement and Kalinga Nagar movement. Large number of women along with school children protested the POSCO project in sleeping under the scorching sun in Jagatsinghpur district in Odisha. In Kalinga Nagar movement large number of women took part in protest movement against Tata project and two women were killed in the police firing on January 2, 2006. The women of Kadalmunda village being displaced by the project have taken a leading role in a non-violent struggle against the authority-Mahanadi Coalfields Limited (MCL), and succeeded in winning a better rehabilitation
Documenting the women’s participation in the protest movements against the projects like Utkal Alumina International Limited, BALCO in Gandhamardan hill, National Missiles Test Range at Baliapal, Chilika Aquatic Farm Limited at Chilika lake, TISCO Plant at Gopalpur etc in Odisha and the Koel Karo Hydel Power Project, Subarnarekha Multipurpose Project and Netarhat Field Firing Range in Jharkhand, Institute for Socio-Economic Development (ISED) found that women participated in great numbers in such protest movements. Women invariably had to act under the leadership women leaders. Almost all the movements had some kind of political affiliation and generally women were hardly given opportunity to react to change of stand by political parties. The upper caste people did not want their women to join the movement apprehending loss of prestige in the society. Although, women participated in large numbers in the protest movements yet they were hardly given due recognition. It is also an urgent need to document the role of women in resistance movement against displacement.

Conclusion
In fact, all women do not suffer injustice in the same way. The impact varies depending on the Plural system of caste, class, ethnicity and other social institutions. Gender injustice is appropriated in various levels of the legal system such as substantive, structural and cultural as a result of abortive displacement. In the structural level of resettlement policy many countries and funding agencies have adopted specific gender policies in recent years aimed at mainstreaming gender issues in their developmental interventions. But the actual project planning and implementation continue to overlook gender dimensions. In the Orissa resettlement policy 2006 though the needs of women have got special address but it is observed that the impacts of projects on gender at most of the phases are ignored. Similar study mentions that Asian Development Bank approved a gender policy in 1998, but the impact on gender at the project preparation and implementation stages were often not considered.

Suggestions for Improvement
1. Resettlement sites should be fully developed before any relocation or resettlement including houses, sanitation, schools, drainage, community hall, wells/drinking water, roads, health centers, ration shops, common spaces --playground, burial/crematorium ground, spaces for cultural reproduction and green cover.
2. Resettlement areas should cover or include all sources of livelihood such as agriculture, horticulture, livestock, fishing, forestry, artisans, CPR products, shops, SSIs, OAME-Own Account Manufacturing Enterprises and family enterprises.
3. The resettled area should have full facilities in terms of micro finance, SHGs (Self Help Groups) and extension services with subsidies being provided for all livelihoods.
4. Gender participation should be integrated fully in all the processes of displacement-consultation, design, and implementation in achieving consensus.
5. There should be gender parity with regard to compensation irrespective of age and marital status.
6. After proper rehabilitated and resettled completed a fixed share of the profit incurred by the organization be made available to the displaced people. It is necessary for the long sustainability of the project.
7. CSR should be mandatory and be a part of constant and continuous process to empower the affected families at least for two generations and some special provision should be made to empower women.

8. All the relocation should be in similar geographical terrain, without the loss of cultural and communitarian identity

9. Single window disbursement of beneficiary scheme should be adopted

10. All self-governance institutions such as Gram Sabhas should be constituted immediately after the rehabilitation with fifty percent gender representation

11. Free vocational training and skill up-gradation must be provided by new project from the day of MOU with Govt. till the organizations continue to survive and special focus should be given to women.

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Land Reform in the New Millennium: The Kerala Experience

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Abstract
This paper provides a critique of land reforms in Kerala. Some of the issues addressed by land reforms initiatives of the state government include redistribution of land, recuperation of land for farming, augmenting farm productivity and livelihood of landless peasants. Land reforms in Kerala have been a classical example overturning the malady of feudalism. It also captures the aspirations and struggles of certain tribes as well as landless peasants who fought for their right over land.

Keywords: Land Reforms, Kerala, India

The closing years of the twentieth century witnessed the rise of certain earthly public issues pertaining to the critical nature of Kerala’s development trajectory. Those issues related to, among other things, the series of struggles put up by the tribals and scheduled castes for land, the unprecedented political struggle of the plantation workers at Munnar Tea Plantations, Government action against encroachers of public land of Munnar, Wagamon and other hill stations, the revelation that all the major plantations had amassed huge extent of government land at the western Ghats and continue to challenge the rule of law, the suicide of farmers in the state in the shadow of the national tragedy, the raising of demand from the part of intellectuals and activists for starting the second round of land reforms for the sake of food security, social justice and tranquillity of rural Kerala, and so on.

The call for the second round of land reforms arose in the context of the political options before the political forces of the state. At the outset, it was argued that the vast majority of land owners are not eking out a livelihood from land. The solution is a redistribution of land among the real tillers. Yet another argument emerges from the fallacy of maintaining the outmoded production system of plantations. The income from the cash crop economy is not enough to buy food crops nowadays. Again, more than sixty five percent of the arable land is occupied by the plantations. This suffocates the endeavours at augmenting food production. At the other end of the spectrum, the increasing clout of finance capital towards the safe investment options in the state. Naturally, land has become an investment option along with gold, bank investments, shares, etc. And at the same time the landed interests

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are fortifying their positions against attempts at redistribution of land. It is at this point that the burgeoning struggles of the tribals and the scheduled castes for land are to be evaluated. The battle lines are almost drawn. It is interesting to think about this agrarian problem of Kerala in a political economy perspective. But before that, the story of Kerala's tryst with land reforms is in order.

Springing from the ground realities around the world, demands for rights on land cropped up in this part of the country also, towards the beginning of the twentieth Century. As a historical process, the transitions sprang from the urgencies of the severe struggles among the agrarian classes. And when Indian became Independent, land reform was identified as an area of prime concern. Serious efforts were undertaken to address the agrarian question. As is told, Kerala's stint is "perhaps the most drastic of any (land reform legislation) passed by any state legislature in India"1. Any attempt at evaluating the land reform experience of the state must start from the articulations of the Principal Act (The Kerala Land Reforms Act, 1963/KLRA, '63). As a matter of fact, excluding the Principal Act and its amendment of 1969, subsequent land reform legislations were minor ones, in their scope and impact. In view of this fact, it is impendent to begin this chronology right from the swearing in of the first elected Communist Government of 1957, which articulated the organised resolve to address the critical agrarian question of Kerala.

In the wake of the fast changing agrarian situation, the immediate resolve of the new government was to stabilize the sector. The action was warranted in the context of the vast scale of evictions taking place, sensing the mood of the new regime. Hence the enactment of the Kerala Stay of Eviction Proceedings Act, 1957. This was followed by the comprehensive Kerala Agrarian Relations Bill, 1957 (KARB), finally passed in 1959. Before long, the vested interests, in conjunction with the opposition, unleashed the liberation struggle that eventuated in the dismissal of the Ministry.

The eventuality could not be otherwise as the potential of land reform in rural transformation was pretty sensed by the vested and ambushed the scheme with all their machinations. Accordingly, the new Congress - PSP government did not waste time and legislated the Kerala Land Reforms Act, 1963, diluting almost all provisions of the KARB. Once the mission accomplished, the ministry fell and subsequently the state had undergone a long spell of central rule. Finally, the next swing of the pendulum brought the communists back to power.

On assuming power, the government brought in the Kerala Stay of Eviction Proceedings Act, 1967. Along with this, hectic homework was done to bring out a comprehensive amendment to the KLRA, 63. Not long the Kerala Land Reforms (Amendment) Act, 1969 was enacted and saw to it that it is implemented immediately (1970 onwards). These two legislations form the crux of the reforms in the state. In course of time, the left parties vigilantly watched the laws, while the vested interests tried their best to ambush the laws by bringing in alterations. Accordingly amendments came in 1979, 1989, 2008, 2013 and 2016. Most of these were focused on circumventing the ceiling laws and manipulating the regulations on estates and plantations. To explore the recent amendments, a review of the initial acts is attempted.
The Kerala land reforms as amended by KLR(A)A, 69 contained three important programmes: 1) Abolition of landlordism conferring ownership rights to cultivating tenants of the lands leased-in by them. By involving sec 72 of the Act, the government vested the rights on them. 2) Enfranchisement of the landless. Indulging into the segment of social justice, the government allotted small parcels of land to the landless to build their homesteads. It was decided that the government would purchase the land and give it to the homeless and landless. 3) Taxing rich and helping poor. Taking over the surplus land by imposing a ceiling and distributing the same among landless labourers and poor peasants. The ceiling was fixed at 5 standard acres for an individual and fifteen for a family.

Ever since the implementation of land reforms, it became clear that its success depended on the speedy implementation and the vigilance and activism of the beneficiaries. After a decade of implementation, the process reached its completion. This was true with regard to the first two provisions of the land reform law. While the provision relating to the ceiling and redistribution, it is still going on. In fact, the subsequent amendments to the Principal Act became necessary on account of the manipulations of the landed to subvert the land laws and the resistance put up by the beneficiaries under the leadership of the left parties. In the process, land has transformed into commodity where the finance capital indulged in all cruel machinations.

When the first decade of land reforms implementation was completed by 1980, landlordism stood abolished and rights have been transferred to the cultivating tenants. Accordingly, about 70% of the applications have been settled involving nearly 20 lakh acres of land. The scheme had benefitted nearly 1.23 million tenant households. And the average area allotted per tenant household was 1.6 acres, roughly. During the period the allotment of land for constructing houses to the landless achieved 99 percent, basing on the number of applications filed for the same. The extent of land allotted under this scheme was estimated at 21522 acres, and the average area was worked out at 0.08 acre. Regarding the ceiling laws and the subsequent redistribution of land, excluding the disputed cases, 97 percent of the identified excess land has been taken over (77,144 acres). About 65% of this land have been distributed among 80,825 persons. That is, each beneficiary received an average of 0.62 acres. The details of government land illegally occupied by private estates and individuals are still unknown. Similarly the large scale manipulations of the ceiling laws by powerful landed interests are still to come public. During the bulldozing of illegal occupations at Munnar in 2007, it was found that Harrison Malayalam plantations have under its custody of 76769.80 acres of government land. Similarly, many private plantations continue to hold vast extent of land under lease agreements which have expired long ago. In many instances the rate of rent has been notoriously nominal, for example, Re.1 for 1 acre for one year.

The provision of ceiling on holdings and the redistribution of land to the landless continued to stir up political contests and judicial interventions in view of the commercial and financialising potential of land in the new century. Therefore, right firm the day one of the implementation phase, powerful interests were at work to scuttle the laws and jump over the ceiling limit. The trend also illustrated the politics of the reforms, where the like-minded forces coalescing together to ambush the land laws. At the other end of the spectrum, the
potential beneficiaries were dissuaded by the long delays and loss of elan among them to put up serious protests to keep alive the land question.

Bringing in the Gift Deeds Act of 1979 was a major exercise towards jumping over the ceiling provisions. The act was the culmination of the efforts at protecting the landed forces of their assets and saving the government from falling apart. This Act was concerned with circumventing the ceiling limit by ceding the excess land to the relatives as gift. In fact, when the government thought in terms of easing the clauses of ceiling law pertaining to giving land as gift to near and dear ones, a classification was made by constricting its application. While the gifts made by the owner to his descendants since 1970 went on incessantly. But in 1974, the High Court intervened to protect the fast draining stock of excess land and set aside the alterations made.

Then came emergency. This phase saw the coalescing of vested interests and the side-lining of progressive forces. The permutations and combinations of political parties of the time produced one of the successful rightist combinations led by one of the communist parties, legislating the most retrogressive Gift Deeds Act to circumvent the legal fortifications imposed by the Judiciary and to smoothen the scuttling of the ceiling laws.

As mentioned elsewhere, by the time the government formally started implementing land reforms from the wee hours of the 1970’s, almost all the three provisions have been done. Landlordism stood abolished and the tenants and subtenants were enfranchised. Homesteads had already been delivered to the landless plebians. Importantly, surplus land was found negligible at that time owing to the long interval between legislation and implementation. In fact the vast potential of the distribution have been ambushed by the manipulations of the landed interests in conjunction with the bureaucracy. One such instance was the infamous Gift Deeds Act. Apart from the huge erosion of surplus land through bogus gifts of land to dear and near ones, done under the shadow of the unclear provisions until 74, the government itself volunteered to protect the violators by issuing covert G.O.s. But when the High Court had undone such illegal land transfers, the government went in to frame a law that could jump over the ceiling provisions. As a matter of fact, the Gift Deeds Act was the culmination of the blackmail politics of the landed interests for bringing in the legislation as the price of political support that they extended to the regime. Accordingly, the KLR(A)A, 1979 (Gift Deeds Act) was enacted to invalidate the High Court rulings against the blatant violations of land reform Act.

In the year 1989, the LDF government brought out two amendments to the Principal Act, for the settlement of two important impediments in the process of land reform implementation. Of the two amendment acts, the first is the KLR (A) Act, 1989 extending the benefits of tenancy to one more class of hutment dwellers. It was estimated that about 40,000 tenants would benefit from the measure. The second amendment KLR(second amendment Act 1989) provided for the establishment of a state land Reforms Tribunal. This tribunal was designed to exercise the jurisdiction, power and authority exercisable by all courts except the Supreme Court. The extent of land taken over by the government as excess land and identified as excess land were involved in litigation and the new amendment will deal with these cases and expedite the process of implementation of land reforms.
The twilight years of the twentieth century saw the heavy downpour of neo liberalism. The huge changes that came in with it really ambushed the imaginations of even the common man. The fire power of finance capital subjugated all entities of public life and brought to its knees, the remaining vestiges of political power. The inevitable consequence had its repercussions in Kerala also. The unprecedented impact of the finance capital into the parallel economy produced grave consequences that could have created chaos, but the situation was saved by the privileges of gulf money leaving aside the deep transitions sedimented in other sectors of public life, the shadow economy nearly outstripped the mainstream economy. One instance is the annexation of common property resources by way of privatisation- developmental drive. This has denied the benefits of common property resources to the vast majority of the masses. When the large estates were exempted form ceiling laws as part of the conceptualisation, the new moves are intended as a ploy as tourism and industrial purposes. It is simple manipulation of land reform laws.

In the new century things have reached a stage where the very survival of Kerala became problematic, particularly in matters of indiscriminate construction boom, unscientific exploitation of water resources and ground water sources, the conversion of agricultural land into real estate property, etc. Therefore, owing to the "indiscriminate and uncontrolled reclamation and massive conversion of paddy land and wetland are taking place in the state" that the government thought it expedient to put a brake to the process by legislating an Act, the Kerala Conservation of Paddy land and Wetland Act, 2008. The government intended through the Act to "conserve the paddy land and wetland and to restrict the conversion or reclamation thereof, in order to promote growth in the agricultural sector and to sustain the ecological system in the state of Kerala" The new Act came into effect since 11 August 2008.

The Act consists of thirty clauses. The two critical clauses that determined the destiny of the Act are clause 5(3) and 10. According to Cl. 5(3), even when the Act prohibits all conversions and reclamations, the same is allowed "for public purpose or for construction of residential building for the owner of the paddy land". This clause proved to be very costly as far as the effectiveness of the law was concerned. This clause allows filling of paddy land not more than 10 cents in a Panchayat or five cents in a Municipality / Corporation... for the construction of residential building...

Clause -10 allows the government to give exemptions to the rule for conversion/reclamation of paddy land. These exemptions are operational when "no alternate land is available and such conversion or reclamation shall not adversely affect the cultivation of paddy in the adjoining paddy land and also the ecological conditions in that area."

The politics and economics of the Act became evident since the first day of its coming into force. The bureaucracy and the political elite collaborated to undermine the Act by exploiting the loose ends of the law. However, it is to be noted that the very conceiving of the Act contained certain flaws. Instead of issuing exemptions towards housing requirements of the homeless, separate schemes should have devised for the homeless and landless. When a law is designed to ban conversions and reclamations, it should have omitted clauses that give exemptions to the law.
The Act conferred on the government the power to issue special orders for filling paddy lands on public purposes. In view of the potential of finance capital, and the blooming of mega structures impended the regime to go in for massive special orders, suffocating the Act. The huge inflow of black money which was frantically in search of investment spaces. As the "last bus to development," these mega projects included ICT, Tourism, real estate, gold business, water theme parks, super speciality Hospitals, unaided professional colleges, etc. All these projects necessitated land at any cost. Then, with the connivance of the bureaucracy, the Act was sabotaged. The judiciary was made a mere spectator. Ultimately, the inevitable happened.

Since the coming of the Act, applications for housing on converted or reclaimed land were rejected by the government. Then the applicants moved the court. Generally, it was argued that the land in question has not been agricultural land for quite some time and could not be treated under conversion or reclamation. The courts then ruled that the authorities shall verify the nature of the land and take suitable action. In such a context, as the land was converted much earlier to the Act, it was piously decided to allow the owners to build their homes and other dwelling places. The number of cases to enjoy this liberal stand of the bureaucracy was huge. The collusion of the government officers with the political elite under the intense pressure of the parallel economy was very evident. Land has already become a lucrative investment option, similar to gold, bank investments, shares, etc. In Kerala, land had transformed into an attractive asset for the safe investing of savings.

Closely on the heels of the tremendous changes taking place in the economy and polity of the country, since liberalisation, plantations have long been seen an obsolete mode of production. Hence the owners of plantations were toying with alternate plans with which maximum returns could be made. It was in this context that the government proposed, in responses to the demands of the plantation owners, the scheme of utilising five percent of the area for other uses including tourism. Naturally the proposal raised a huge protest in public life, as it pertained to the estates of Tatas, Kannan Devan, AVT, Harrison Malayalam, etc. It is to be remembered here that the plantations were exempted from ceiling through the land reforms are being listed for further amendment to benefit the corporates. Let us conveniently forget the longstanding demands of the tribals for land, but the requests of the corporate planters could not be rejected.

The present LDF governments move to amend the 2008 Act stems from the loopholes that surfaced in course of time, by way of bureaucratic discretionary attitudes and interpretations from the judiciary. The government has already nullified the previous Congress governments’ resolve to allow reclamations and conversions of paddy land after imposing a fine of 25 percent of the fair value of the property. The indications are that the amendment would be introduced and passed in the coming Assembly session. The endeavour of the government towards preparing the data bank of the land assets, which has been in the cold storage for quite some time, has also got rejuvenated. All these point to the continuing commitment of the left parties in addressing the agrarian question of the state. It also underlines the negative attitude of the Congress and other parties towards the agrarian problem.
Notes and References

2. As per the law (sec 72) the tenants were to pay purchase price. This is a nominal amount, equal to 16 times of the fair rent of the land. Ownership rights were settled so that the courts shall not question the rights of tenants. See Radhakrishnan (1981) " Land Reform in Theory and Practice: The Kerala Experience", EPW, 16(52), December.
3. Under the homestead-tenants scheme, the occupants (Kudikidappukars) were allowed to purchase small plots that located their homes, by paying 25 per cent of the market value of the land. Of this, fifty per cent will be subsidised by the government. The rest can be paid in instalments. See: Radhakrishnan, op.cit.
5. It is alleged that the redistribution of surplus land from ceiling measures has done very little in aggregate terms. But this has been refuted by some others. Accordingly, about 1 lakh acres of surplus land have been taken over and nearly 70 percent has been distributed. Another 44000 acres are identified as surplus land. In fact, the potential of excess land redistribution has been adversely affected by the Gift Deeds legislation. See Government of Kerala, Land Board," Notes on Progress of land Reforms Act" (Trivandrum). Also, Issacc, TM Thomas (2008) op.cit.
6. The Gift Deeds Act or Kerala Land Reforms (Amendment) Act 1979 was enacted with the avowed purpose of jumping over the ceiling provisions. This amendment validated all gift deeds executed between 1970 (since the start of the land reform implementation) and the High Court ruling in 1974(setting aside all gift deeds). It was argued that about ten percent of the surplus land was ambushed by this Act. The extent of land thus unmade would have helped about 25000 beneficiaries, with tiny parcels of land. A brief political and economic analysis of Gift Deeds Act is available in Ronald J Herring (1983) Land to the Tiller, New Haven; P. Radhakrishnan (1981). " Land Reforms in Theory and Practice: The Kerala Experience", Economic and Political Weekly, Vol. 16, No.52. December, Ronald J Herring (1980) "Abolition of Land Lordism in Kerala_ A Redistribution of Privilege", Economic and Political Weekly, Vol.5, NO. 26, June.
12. Ibid.
Constitution Making Under Governments of National Unity: The Zimbabwean Case 2009-2013

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Abstract
Constitutions are the bedrock of democratic governance in the contemporary world and any state claiming democratic credentials needs to base its claims on a good constitution and positive constitutionalism. In the period from 2009 to 2013, Zimbabwe was ruled by a negotiated government of national unity (GNU). The government, a result of inconclusive presidential elections in 2008 was tasked with writing a new constitution to take the country out of the crisis that it has undergone since the turn of the century. The GNU duly set upon this task and wrote the constitution which was passed by parliament in May 2013. Against this background, this paper seeks to analyse the Constitutional Parliamentary Committee (COPAC) driven constitutional making process. Using a qualitative methodology based on participant observation and document analysis, the paper shows that the process was fraught with irregularities and ushered in a negotiated constitution in place of the initially touted people driven constitution. Thus the paper intends to reveal the pitfalls of a negotiated constitution making process. The paper concludes that in a transitional period, people driven constitution making is at the least too ambitious and at the worst totally unfeasible.

Keywords: Constitution, Zimbabwe, COPAC, government of national unity, constitution making, ZANU (PF), MDC

Introduction
Constitutionalism and constitutional reform is often a contradictory and highly contested process with different parties bringing different political agendas and competing imaginaries to the process. Constitution-making processes are a central aspect of democratic transitions, peacebuilding and state-building. In any post conflict nation, some form of constitutional review or reform is often a key component of comprehensive settlements (as evidenced by Cambodia, East Timor, Afghanistan and most recently Iraq) to a conflict and the transition from violent conflict to peace. Zimbabwe has been no exception to this trend, and the major political parties have since the late 1990’s often fought out their competing conceptions of change and democratization on this terrain. In the same vein, the period between 2009 and

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2013 in Zimbabwe was characterised by a struggle for constitutional reform. Article VI of the Global Political Agreement (GPA) set out the ‘fundamental right and duty of the Zimbabwean people to make a constitution for themselves’, also stipulating that the process would be carried out by a Select Committee of Parliament composed of the parties to the agreement. The Committee carried out its mandated task and it is this process which this paper seeks to analyse.

**Terms and Definitional Framework**

Constitutions form an obstacle to certain political changes, which would have been carried out had the dominant majority had its way. A constitution is a set of norms and principles limiting the political power of the majority and protecting the rights of individual and minority groups. It is a set of rules that govern the basic structure and operation of institutions of governance in a state. In a modern constitution the rules will also provide for the basic rights of people within the state, and may include some guiding principles for national laws and policies more generally. In most countries the word refers to a particular enactment that contains those rules. But some countries have no enactment that is called the constitution, a few have several that together make up the constitution, and in a few the constitutions comprise a mixture of conventions and laws.

Although it is very clear that constitutions can guarantee very little in the absence of robust institutions, a constitution is nonetheless a very important document for a nation – it is the “autobiography of a country” as a respected South African jurist, Justice Mahomed, has pointed out. The constitution therefore should strongly represent the desires of a nation, both in resolving the problems of the past and in framing the way of the future. This implies that it will reflect as strongly as possible the widest consensus of the citizens of a nation: a constitution that reflects the compromises between polarized groups is merely framing the problems and doubtfully resolving them.

**Theoretical Framework**

This paper makes use of Gramsci’s theory of hegemony to analyse the constitution making process in the period under discussion. Gramsci defines hegemony as the ability of a social group to direct society both politically and morally. He notes that,

> The hegemonic group acquires authority through the intellectual, moral, and cultural persuasion or consent of the governed population without applying violent, political or economic means of coercion. Nevertheless, coercion is always latently used in support of its hegemony. In order to become hegemony, a group must unite the

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1 Ministry of Constitutional and Parliamentary Affairs *Agreement between the Zimbabwe African National Union-Patriotic Front (ZANU-PF) and the two Movement for Democratic Change (MDC) formations, on resolving the challenges facing Zimbabwe*, (2008) Government of Zimbabwe


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features of coercion and consent through the notion of a ‘dual perspective’.³

Iseri cites Gramsci as arguing that a social group, which intends to become the hegemony or the leader, can either use the means of coercion or the means of consent by persuading society to accept and assimilate the norms and values of its own prevailing world-view.⁴ However, coercion does not always mean domination but may equally mean consent or the acceptance of the hegemony’s leadership (ibid). Thus the constitution making process in this regard is seen in the context of gladiators who try by all means possible to not only control the process and ultimately outcome, but also wanted to use the resultant constitution to further their political goals. Thus, the political institutions in Zimbabwe strove to dominate and exert control over constituencies involved in the constitution making process through coercion and consensus.

Love understands hegemony as domination across the economic, political and ideological domains of a society.⁵ To her it is about constructing alliances and integrating rather than simply dominating subordinate classes through concessions or through ideological means to win their consent. In the Zimbabwean context, hegemony can be regarded as leadership of both the MDC and ZANU PF that vied for the control of political office and the influence it has on the outcome of the constitution making process.

Gramsci’s comprehensive work presents probably the most promising place to begin the exploration of the difficulties experienced in constitution making in Zimbabwe. Through Gramscian theory we are able to observe the struggle for power by ZANU PF and MDC as detrimental to progressive constitution making. A constitution making process that embraces the people’s views would perhaps diminish the ruling regimes chances of remaining as the political hegemony in Zimbabwe because ZANU PF on one hand has been accused of manipulating the constitution for its own benefit thus they were unwilling to see a constitution that diluted their influence. It is likely that such a process could have swung the struggle for dominance on Zimbabwe’s political landscape towards opponents of the ZANU PF regime.

**Tenets of Constitution Making Processes**

Under normal circumstances, the constitution-making process includes a number of clear cut, straightforward elements. If properly done, an ideal constitution-making process can accomplish several things. For example, it can drive the transformative process from conflict to peace, seek to transform the society from one that resorts to violence to one that resorts to political means to resolve conflict, and/or shape the governance framework that will regulate access to power and resources—all key reasons for conflict. It must also put in place mechanisms and institutions through which future conflict in the society can be managed without a return to violence.

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⁴ Ibid.
This however, is only attainable when the constitution making process is properly done. First and foremost, the process need and assessment of the need for a constitution-making process. This is an activity that should be done well before the actual constitution making process. In conflict and post-conflict situations, a constitution-making process may be provided for in a peace agreement or similar instrument.

Once the need for a constitution making process has been identified and agreed upon, high-level negotiation between key constituencies leading to an agreement on how constitution-making is to proceed should be held. This should ideally lead to the constituencies establishing a structure and blueprint for the process, including who will be involved in preparing a draft, how they will be selected, how consensus will be built, how the constitution will be adopted, what the timeline will be, and how disputes will be resolved.

This should naturally lead to the establishment of a representative body (e.g. constitutional commission) to lead public education and consultation campaigns, and to prepare a draft of the constitution. It is envisaged that this representative body should be inclusive and fully representative of all sectors of the concerned country’s population. In line with the establishment of the representative body, should be the establishment of a secretariat or other body to support the mandate of the constitutional bodies, in particular with the logistics involved in carrying out public education and consultation campaigns.

Once the representative body and secretariat have been formulated, a wide ranging, inclusive public information and civic education campaign on the constitution-making process, and the role and implications of the draft constitution should be done by the representative body. This should then be naturally followed by a public consultation process led by the representative body to gather views and ensure input of the public on the draft constitution. Once the consultation process has been undertaken, the representative body should ideally appoint a team of drafters to work on the draft constitution from the results of the consultation process.

Once this is done, the representative body should then submit the draft constitution to a representative forum (e.g. constituent assembly, constitutional convention, or parliament) to debate it and make any amendments. Once parliament has debated and factored in any necessary amendments, the constitution should go through final adoption procedures (e.g., qualified majority in the representative forum, or a referendum). The final step once this happens is the post constitution-making education on the newly adopted constitution and development of a strategy for its implementation.

However, it is vital to note that constitution-making processes usually have many elements, ranging from a high-level negotiation between key constituencies leading to an agreement

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7 Ibid.

8 Michele B et al op cit.

9 Ibid.

10 Ibid.
on how constitution-making is to proceed, to final adoption procedures. There is no “one size fits all” framework for a process. Sometimes, such as in Cambodia, it will be useful to have a more detailed framework that includes the principles to be enshrined in the constitution. At other times, the framework should be more skeletal, such as in Afghanistan, to allow for flexibility to respond to the inevitable changes in the political context. All this should be done with the view that constitution-making can provide a key opportunity for peacebuilding in conflict and post-conflict countries. Deliberative processes that promote national reconciliation, conflict resolution and consensus building take time. In the Zimbabwean case, opportunities to make the process more genuinely participatory were missed, in part, because of tight timelines.

During the constitution drafting process, decisions are made as to the limits and practices of the new regime, and the rights and duties of the citizens. The process is a rare moment in a state’s history when detailed discussion rises above the give-and-take of everyday majority politics and focuses on the nature and future of the state. The process of drafting a constitution may significantly contribute to national reconciliation. It requires negotiations among key groups on constitutional principles. It also requires public participation in order to gain legitimacy and to reflect popular aspirations. Thus, constitution-making has the potential of contributing both to the short-term goal of conflict resolution and peace-making and to the long-term goal of peace-building and strengthening of the state institutions. Also, it has the potential of ensuring that universal principles such as respect for human rights are enshrined in the new constitution.

Rationale for a New Constitution in 21st Century Zimbabwe

The Lancaster House Constitution: The recently introduced new constitution was long overdue in Zimbabwe. First and foremost, Zimbabweans have since independence been using a constitution that is not their own making. The immediate past constitution in Zimbabwe was a product of negotiations at the Lancaster House Conference that ushered in independence to Zimbabwe. The conference in addition to being a peace making process also served as a constitution making forum. However, due to the circumstances leading to its being held (the protracted violent armed struggle that had been fought from 1966), the resultant agreement and constitution were largely compromise documents. Resultantly, the constitutional compromises agreed to at Lancaster House in 1979 were the result of a convergence of national, regional and international pressures that inaugurated the politics of the post-colonial state.

For the nationalists coming out of the liberation movement constitutionalism and the law had a complicated history. On the one hand these discourses were constitutive of their demands against the colonial state and in conceptualizing their own legality and legitimacy, and have thus played an important role in both locating their demands and in imagining the possible forms of a future state. On the other hand for this generation of leaders the liberation struggle was also viewed as an alternative to constitutionalism with the war for liberation conceived as leading to the destruction of the colonial state and the

establishment of ‘people’s power’ however nebulously defined. Once in power Zanu PF, as in the case of other post-colonial political parties, instrumentalised the use of the constitution to concentrate power in the presidency and used constitutionalism to reconstruct the power relations of the state to deal with political opposition. This was to create multiple problems leading to a protracted conflict between 2000 and 2008.

The Lancaster House Agreement provided a number of lessons for future situations. The most prominent of these was that negotiators should not combine the conclusion of a peace agreement with constitution-making. Bosnia and Herzegovina and Zimbabwe are quintessential examples of countries where the peace agreement and the drafting of the constitution were combined into one negotiation process. In both cases, the constitution entrenched disagreements without providing avenues for political change.

In the Zimbabwean case, the militarised nature of the conflict conflated the peace-making process with the making of the 1980 constitution. The constitution was not conducive to the resolution of conflicting interests in the long-term. The deeply entrenched protection of white farms, a necessary component of the peace-making process, proved to be an intractable problem. The Lancaster House case indicates that, although co-ordination between the constitution-making and peace-making processes may be beneficial, their coincidence is not.

The 1987 amendments – Rewriting a constitution without the people: Having lived with an imposed constitution since independence and in an effort to further entrench their hold onto power the ruling elites in Zimbabwe introduced wide reaching amendments to the constitution after the signing of the Unity Accord in December 1987. Chief amongst these was the now notorious Amendment number 7 which introduced the executive presidency. The amendment also ushered in the Presidential Powers (Temporary Measures) provisions which would be used many a time to introduce legislation through the back door. These amendments not only created room for autocracy but also laid the ground for the governance and constitutional crisis of the early 21st Century.

The Constitutional Commission of Zimbabwe and the 1999 Constitution Draft: In the face of the undesired and imposed independence constitution and the retrogressive slide to autocracy in Zimbabwe, civil society organisations began to call for constitutional reform after the lapse of the 10 year moratorium imposed at Lancaster House. In this regard, they began moves towards writing an inclusive people driven constitution. In reaction to the emergence of a mass democratic movement and emergent political opposition calling for constitutional reform, Zanu PF attempted to control this process from above through a government controlled constitutional review process. This it aimed to do by curbing the demands for popular sovereignty and once again seeking to secure centralised Presidential powers. Thus in the face of opposition demands for a new constitution, the government set up a Constitutional Commission.

13 Government of Zimbabwe Presidential Powers (Temporary Measures) Act
The Commission was directed to submit its recommendations by 30 November, 1999 and given specific terms of reference, charging it with the responsibility to set in motion a process the outcome of which should be a new constitution to be presented to the President of Zimbabwe on or before 30 November, 1999. The Commission consisted of 400 members: the Zimbabwean Parliament of 150 members constituted the core of the Commission’s membership; and the other 250 members were drawn from the private sector and a cross-section of civil society entities and individuals many of whom represented the best Zimbabwe has produced across the professions. An impressive leadership bureau was appointed: the then Judge President of the High Court, now Chief Justice Godfrey Chidyausiku, was appointed Chairman of the Commission, with prominent female statesperson, Mrs Grace Lupepe, Anglican Archbishop Jonathan Siyachitema and renowned academician and lawyer, the late Professor Walter Kamba, as his deputies. The commission duly executed its mandate and presented a draft to the president. However, upon presentation to the electorate in a referendum in February 2000, the draft was rejected. The rejection of the draft led to issues of constitutional reform going on the back burner.

The 2001 NCA Constitution Draft: The National Constitutional Assembly is a civic organisation formed in 1997 a conglomeration of civil society organisations to campaign for the writing of a new constitution. When the referendum was called in February 2000, the NCA campaigned for a no vote largely because the CCZ draft had retained an all-powerful president not different from the executive president introduced in 1987.14 After defeating the government draft in the February 2000 referendum, the NCA initiated its own parallel process of collecting the views of Zimbabweans on a new constitution and came up with its own draft in 2001. The draft, an improvement on the government draft did not however gain any support from the government. Furthermore, it was also not very inclusive as it was largely a product of the views of CSOs rather than the common people.

The Kariba Draft: In 2007, ZANU (PF) and MDC came up with a draft constitution under the auspices of the SADC negotiations. It was finalised and signed at Kariba on 30 September 2007. It is the draft acknowledged by the GPA but this acknowledgement was interpreted differently by the main protagonists in the Zimbabwean political scene. It was largely a reproduction of the rejected 2000 draft of the CCZ.

2008 elections, GPA and the creation of COPAC: In March 2007, opposition leaders involved in prayer campaign dubbed Save Zimbabwe Campaign were beaten by the police and arrested leading to SADC intervention through calling for negotiations to the Zimbabwean impasse. With the SADC mediation the issue of the constitution became one of the central concerns of the political facilitation. In June 2007 the parties agreed to ‘negotiate a draft constitution, after which a select committee of parliament would take the draft constitution through a public consultation exercise culminating in the enactment of that constitution before the 2008 election.’ Moreover the parties negotiated the amendments to the Constitution of Zimbabwe Amendment Bill No. 18, ‘on the express understanding by the Zanu PF negotiating team that they would not renege on the enactment of the agreed draft constitution before the 2008 election.’ Leaders of both MDCs ‘sought and obtained guarantees’ from then President Mbeki that Zanu PF ‘would not be allowed to renege on

14 Ncube N ‘NCA Rejects Draft’, Financial Gazette 6 January 2000 1
the agreement to implement a new constitution before the next election.’ By December 2007 it was clear that Zanu PF had decided to renege on this agreement as Mugabe unilaterally declared that the elections would take place in March 2008 without a new constitution. Thus the contested 2008 elections took place under the Lancaster House constitution.

The harmonised elections in March 2008 handed ZANU (PF) a defeat in the legislative elections and its leader the incumbent Robert Gabriel Mugabe was relegated to second place by the MDC’s Morgan Richard Tsvangirai. However, the results for the presidential poll were only announced after 45 days giving rise to suspicions that they had been manipulated to avoid an outright defeat for Mugabe. Thus, under the country’s Electoral Act as amended in 2007, the two protagonists had to square off once again in a runoff. Campaign for the runoff set for 27 June 2008 turned very violent leading to Tsvangirai pulling out after more than 200 of his supporters had been murdered. Mugabe went on to stage a one man race and won with a landslide figure. He was immediately inaugurated and went for an African Union meeting in Egypt where he was told to negotiate with the MDC. SADC which had initiated negotiations between the two parties was given the mandate to find a solution. Under the mediation efforts of the then South African President Thabo Mbeki, the parties reached an agreement named the Global Political Agreement which they signed on the 15th of September 2008. It was this agreement which ushered in the constitution making process under discussion in this paper with article 6 of the agreement stating that it was a ‘fundamental right and duty of the Zimbabwean people to make a constitution for themselves’.15 This article set both the important stages and the general principles of constitution making process. Under this article the constitution making process was meant to be people driven, inclusive and democratic.

The Inclusive Government and Constitution Making

When time came for the GNU to write a new constitution, the process was riddled with controversy, squabbling, and politicisation of the process. The whole process was purely political party driven with the 3 parties represented in parliament ZANU (PF), MDC-T and MDC driving the process. It was carried out in a polarised environment characterised by a media war, conflict with civil society, external influence, financial challenges and was a top-down elitist process.

Phases in the Constitution Making Process: In terms of the Global Political Agreement COPAC divided the constitution making process into three phases. These were the Preparatory Phase, the Consultation Phase and the Drafting phase.

The Preparatory Phase: The preparatory phase involved the identification of all the interested stakeholders. This was done and the first All Stakeholders’ conference was convened in July 2009. The Stakeholders’ Conference developed 17 thematic areas to guide the outreach teams in soliciting the views of the people. It also laid the principle that in all

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15 Ministry of Constitutional and Parliamentary Affairs Agreement between the Zimbabwe African National Union-Patriotic Front (ZANU-PF) and the two Movement for Democratic Change (MDC) formations, on resolving the challenges facing Zimbabwe, (2008) Government of Zimbabwe
the organs to be established in this process, civil society representatives had to constitute at least 70% with parliament constituting the other 30%. The conference also adopted the principle that as much as possible, the 50: 50 gender representation principles should be followed.

The Consultation Phase: The public outreach program was launched by the Principals to the Global Political Agreement. These were the President, the Prime Minister, and the Deputy Prime Minister who doubled as the leaders of the political parties represented in Parliament. At that launch, each principal reiterated the commitment of his party to the constitution making process. They all undertook to respect the views of the people and not to temper with them. There was also a commitment of all the political parties to non-violence during the public consultation process.

At the completion of the outreach process, a total of 4 821 meetings were completed. A total of 1 118 760 people attended the meetings and comprised of 416 272 (37%) males, 441 238 (39.44%) females, 252 240 (22.64%) youths and 8 020 (0.72%) being people with special needs. COPAC enlisted the views of Zimbabweans in the Diaspora as well as institutions and other interest groups. At the end of the outreach program COPAC had the following set of views; views of the Zimbabweans gathered in public meetings during the outreach process, views of the Zimbabweans in the Diaspora, constitutional submissions by various Zimbabwean institutions, views of the children and views of Zimbabweans living with disabilities. The whole consultation process took about 100 days.

During the outreach phase, civil society demanded that they be accorded observers status. The objective was to have people outside the formal administration of the program to make sure that the outreach process complied with the fundamental principles set in Article 6 of the Global Political Agreement as well as acceptable common international practices. They were grudgingly allowed to observe this process.

At one public forum, a SAPES Trust’s Policy Dialogue Sessions in mid-2012, Professor Welshman Ncube asserted that, given the numerous problems attendant to the COPAC exercise, the latter would have to resort to the “negotiation” method if a draft constitution was to emerge at all. Therefore, COPAC should have confessed publicly that this is precisely what it is doing towards producing the (incomplete and contentious) draft, instead of claiming to have adhered to a “people-driven” process.

The Drafting Phase: After the consultation process COPAC appointed three drafters to do the actual writing of the constitution. The COPAC drafters were faced with the mountainous task of sifting through the more than 100 million responses that represented in many respects complaints about the way people were being governed than constitutional issues. The drafting team of neutrals consisting three credible legal minds Brian Crouzier who had worked as a drafter in the Attorney General’s office, Priscillar Madzonga from the same office and Justice Chinengo and High Court judge in Botswana did their job exceptionally well.

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16 COPAC

17 Ncube W
These drafters did their work assisted by a technical team of five people from each party. For instance in MDC there were people like Matsobana Ncube and Josphat Tshuma in the MDC-T the late Professor John Makumbe and Dr Alex Magaisa, In Zanu PF Goodswill Masimirembwi and Jacob Mudenda. The drafters managed under the difficult conditions and continuous assault by the ZANU controlled media to come up with a credible draft. However but when it was about to be presented to the select committee ZANU PF came up with a new set of demands that were contained in a 29 page document. The parties felt that now that the ZANU PF party had brought in new demands it was no longer an issue of the drafters to deal with but rather an issue of the management committee of the three parties to deal with the new demands.

The management committee was composed of negotiators from the three parties namely Ministers Priscillar Mihairabw Mushonga, Minister Moses Mzila Ndlovu and co-chair Edward Mukhos from the Professor Welshman Ncube-led MDC, then Ministers Elton Mangoma and Tendai Biti as well Hon Douglas Mwonzora from the MDC - T and then Ministers Nicholas Goche and Patrick Chinamasa and co-chair Munyaradzi Paul Mangwana from ZANU PF. Also sitting in the management committee was Eric Matinenga the then Minister of Constitutional Affairs. The management committee sat to find ways in which they could compromise in light of the new demands contained in the 29 page document by ZANU PF. In the process of negotiations the teams were given an opportunity to continuously refer to their party organs and principals whenever a contentious issue arose. And indeed in more occasions that one, the ZANU PF team asked for a time out to ask their superiors on how to approach certain issues for instance on the issue of running mates they went to ask their principal Mugabe on how to deal with it and they came back saying Mugabe had agreed and Mugabe being the President and Secretary General at the same time because he is the first secretary it was assumed that all was in order.

At the end of the negotiations a compromise emerged and was signed by the three members from the three parties. After three years of delays, obstructions, logistical and financial squabbles, and a problematic outreach programme, a draft constitution was produced through the Parliamentary Select Committee process, COPAC, in July 2012. While the COPAC product is clearly a compromise document it contains some important changes such as controls on executive power, accountability of the security and judicial services, a more independent national prosecuting authority, devolution of power and citizenship rights. Importantly, in terms of process, all the parties to the agreement were signatories to the draft, leading to the logical assumption that at all times the Principals of the parties and their respective leaderships were fully informed of the discussions of the COPAC team.

However in a move that replicated previous interventions to block constitutional reform and eschew its commitment to the GPA, Zanu PF once again initiated a strategy intended to foil a process that has the potential to unravel its political hegemony in the country. In August 2012 President Mugabe presented the leaders of the MDC formations with a Zanu PF re-draft of the COPAC draft, on the grounds that the latter was drafted in opposition to the ‘views of the people’ gathered during the outreach process. This re-draft, described by Zanu PF as ‘non-negotiable’ attempted to undo the COPAC process, undermine the GPA, and once again force the Zimbabwean citizenry into a national election without a new constitution. Moreover the re-draft effectively dismissed the major reforms included in the
draft and proposed a return to the kind of executive powers and party/state rule that Zanu PF has crafted since 1980. Both MDC formations objected strongly to the Zanu PF position. After weeks of political haggling the parties, under pressure from the SADC facilitation team, agreed to take the COPAC draft to an All Stakeholders Conference to be held from 21-23rd October. Surprisingly after the Second All Stakeholders’ Conference, Zimbabweans woke up one morning to hear that the Principals to the GPA had reached an agreement on the new constitution paving way for a referendum. However, it is vital to note that the draft agreed upon by the principals was a great compromise between them and largely negated the views of the people.

Challenges to Constitution Making under the GNU
Violence, polarisation, political, social, economic, media, funding, NCA, civil society, regime change agenda power struggles transitional phase, suspicion, mistrust, lack of experts, lack of sincerity, etc.

The constitution-making process faced the difficult task of carrying out broad-based consultations among the main political groups as well as extensive public participation. It also confronted the short-term priority of resolving disagreements among key stakeholders and the long-term priority of creating stable institutions. The constitution drafting process and the resulting constitution was never envisaged to alone resolve inter-group conflict. Nevertheless, it was hoped that if the constitution-making process was made inclusive and transparent, it could succeed in managing conflict and in facilitating bargaining, reciprocity and collaboration.

The Zimbabwean process took place within a particular historic, social, political and economic context. It came against a background of the civil, social and political unrest that characterized the presidential runoff election of 2008. A number of challenges were encountered in the process and these included the following:

Most crucially, the whole process was undertaken at the time that Zimbabwean government was recovering from the great economic meltdown of 2008. It also came at a time when Zimbabwe’s relationship with the international community was at its lowest. Resultantly the program was plagued with financial problems. Save for the United Nations Development Programme, there were no other financial backers for the process.

Furthermore, the level of endemic political polarisation and mutual distrust among the major political parties in Zimbabwe remained very high and this militated against quick progress in this program. The polarisation was such that the committee could make progress only to see the progress reversed by the political parties in the various fora in which they met. The process was driven by a plethora of structures borne out of this tripartite arrangement: namely the three COPAC co-chairs, the COPAC Select Committee of Parliament, the Management Committee, which includes the Minister of Constitutional and Parliamentary Affairs, and the three GPA Parties’ principles, President Mugabe, then Prime Minister Tsvangirai, and then Deputy Prime Minister Mutambara.

Worst of all, during the outreach program there were a number of incidents of politically motivated violence in some areas. These incidents were reminiscent of the pre 2008 era and made many wonder if anything had changed in the country’s political environment at all. This led to a situation where some of the areas had to be redone much at the expense of
progress. It also meant a duplication of expenditure. Some of the factors militating against progress included, lack of a common vision among the stakeholders, lack of support from the national institutions like the police and the public broadcaster and the political posturing and propaganda by political parties.

There is always a potential tension between democratic principles and constitutional principles, which was reflected in the constitution-drafting process. Constitutionalism limits majority decisions. Another tension between democracy and constitutionalism is that democracy institutionalizes uncertainty, while constitutionalism institutionalizes long-term principles, which are very difficult to change.

Four years after the signing of the SADC facilitated Global Political Agreement in Zimbabwe, the outcome of the process remained fiercely contested, under threat and in the balance. The Agreement, which set out to prepare the political process for a generally acceptable election after the debacle of 2008, had been marked by severe ebbs and flows, all too characteristic of the battle for the state that constituted the politics of the GPA. At almost every stage of the mediation from 2007 and the implementation of the GPA from February 2009, intense conflicts over the interpretation of the accord left their debris on the political terrain, at the heart of which was the struggle over the meaning of ‘sovereignty’. Around this notion Zanu PF in particular wove dense layers of political discourse combined with the coercive force of the state that it continued to control. The major aim of this strategy was to manipulate and stall the reform provisions in the GPA, and to regroup and reconfigure its political resources after plunging to the nadir of its legitimacy in the 2008 electoral defeat.

Last, but not least, the leadership of COPAC did not comprise individuals who could sway decisions and influence in their own parties: no doubt a major factor and problem attendant to COPAC. The three co-chairpersons of COPAC were less than high-profile in their respective parties and enjoyed little or no tangible support from both their party leaders and the COPAC membership. No doubt, poor leadership accounted in no small measure for the obvious organisation’s weaknesses and slack coordination within COPAC.

**SADC and the Constitutional Impasse**

The threat of an impasse in the process allowed for the invocation of a SADC resolution passed at the Heads of State and Government Summit in Maputo in August 2012, which stated that, in the event of any difficulties ‘regarding the Constitution and implementation of agreements,’ the Facilitator should be called upon to ‘engage the parties and assist them resolve such issues, bearing in mind the timeframes and the necessity to hold free and fair elections.’

Since the inception of the mediation in 2007 SADC and South Africa in particular invested a good deal of diplomatic capital in the Zimbabwe facilitation. Moreover since the time of the SADC summit in Livingstone, Zambia in March 2011, the SADC leadership consistently restated its commitment to the full implementation of the GPA, fully aware of the points of blockage in the Zimbabwe equation. This remained the position of the regional body even when at times it was slow in following up on the implementation of its resolutions. Thus for example it was only in September 2012 that a resolution passed at the Livingstone summit in 2011, stating that a SADC team would be attached to work with the Joint Monitoring and
Implementation Committee (JOMIC), was finally put into place. Ambassador Katye from Tanzania and Colly Muunya a diplomat from Zambia, were assigned the task.

SADC’s commitment to ensuring that the regional body remain in control of the Zimbabwe facilitation was set out very clearly from the beginning of the process, with Thabo Mbeki stating that the role of international players would be to ‘support’ and not ‘direct’ the process. This aspiration did not always translate into smooth relations between the EU, US and SADC, with the ongoing debate over the efficacy of sanctions continuing to aggravate the facilitation process. However notwithstanding such tensions and the difficulties they created for SADC, the latter’s credibility was heavily at stake in this process. With Mugabe and his party attempting to draw a line in the sand over the constitutional draft and in the process openly flouting the modality set out in the GPA, it was clear that SADC was once again faced with a severe test of its standing as a mediation body.

The lead player in the SADC facilitation, South Africa, also found herself in the midst of its own major challenges, with the ruling ANC facing many questions over its leadership and authority in the face of the Marikana mine killings. The moral and political authority of the ANC had been severely bruised and this was not lost on Mugabe and his party. Against the background of a problematic history of relations between Zanu PF and the ANC, the former at critical points in the SADC facilitation, questioned the authority of President Zuma and his team. Yet South Africa remained the lead player in the mediation process and SADC retained the primary guarantor of the process. Moreover this factor was the major obstacle to Zanu PF’s repeated attempts to scuttle the GPA and move towards an early election under conditions favourable to the Mugabe regime.

A Critique of the COPAC-led Constitution Making Process

A wit once commented that a camel was a horse designed by a committee. Very rarely are designs of anything useful the result of compromises and especially compromises where the parties involved in design have radically different ideas. This might be a fair characterization of the constitution produced by the GNU in Zimbabwe. This was perhaps inevitable with the Global Political Agreement as it stood, for this was not a transitional arrangement\(^{18}\), but a peace agreement to lead to a transition, which it patently has not done.

SADC subsequently (and repeatedly) insisted on a very simple understanding of what should happen under the GPA: a new constitution and reforms in the many areas that would guarantee acceptable elections. Note the expected direction of events: constitution and reform, then elections, not constitution, then elections and thereafter reform. The latter is what Zimbabwe ended up offering SADC.

It is evident to all that the process leading up to this draft was highly conflictual and acrimonious, which continued right up to the point when the Principals finally agreed on the draft for the new constitution. This is very unsatisfactory. A good constitutional process

would have had the Principals merely rubber stamp the draft; a good constitutional process should also not have required a referendum (as was the case in South Africa); a good constitutional process would have had wide discussion amongst citizens, with all opinions being reflected in the media; and a good constitutional process would have had total agreement about how the process would happen, and would have been as inclusive as possible.

Virtually none of this can be said to have happened in the Zimbabwean constitutional process from 2009 to date. It can be argued that this process could only produce a camel and not a stallion, and some argue, with considerable justification, that a flawed process can only produce a flawed result. Others argue that at least it is an improvement on the current constitution and all its myriad amendments, and there is some justification for this view.

**Recommendations**

In the face of the constitution making process in Zimbabwe from 2009 to 2013 there is need for future incidences of a similar nature to be avoided. First, there are benefits in separating the termination of violent conflict and the signing of a peace agreement from the process of drafting the constitution. The Zimbabwean case dating back to 1979 and into the immediate past constitution making process shows that, when these two processes are collapsed into one, long-term concerns of institution building may be compromised. Also, in such cases, public participation is usually minimal.

Second, it is beneficial for purposes of conflict resolution to broaden the number of groups participating in the constitution-making process. Exclusion of key actors from the drafting process may undermine the legitimacy of the final outcome. When dominant groups are excluded, the constitution adopted has dim prospects of enduring. Experience demonstrates that, for purposes of conflict resolution, an initial or interim power-sharing agreement guaranteeing representation to the main parties is beneficial. Ideally, such an agreement should develop into an arrangement, which relies on democratic mechanisms to resolve inter-group disputes rather than on fixed guarantees to each party.

Third, a process of negotiations among stakeholders on key constitutional principles is crucial. Extended deliberation and consultation among key groups clarifies the commitment of the participants to the constitution-making process and lays the groundwork for a political culture of multiparty consultation and cooperation.

Fourth, the participation of the public in the drafting of the constitution is a crucial component of the process. It adds indispensable legitimacy to the final document adopted. It also assists the definition of a national identity and the articulation of common popular aspirations for the future.

**Conclusion**

The COPAC led process has clearly shown the folly of constitution writing under power sharing arrangements. In short, COPAC succeeded most in affording constitution-making a negative image. A laughing stock perhaps! Zimbabweans in general are no more informed about constitutionality after the COPAC process than they were before the GPA. To be fair, Zimbabweans have become cynical about constitution-making. The whole process has
merely saved to show that that in a transitional period, people driven constitution making is at the least too ambitious and at the worst totally unfeasible. It has been fraught with weaknesses and has produced an imperfect constitution in which the aspirations of the people are not reflected. As a result chances are high that the constitution will not be durable. It is fairly good as a starting point, but a new process might have to begin if the country is to have a people centred, people driven democratic constitution.

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Academia-Industry Interface in B-Schools: Challenges & Imperatives

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Abstract
There has been a lot of hue and cry about gloomy academia-industry interface in recent years. Louder voices for closer collaboration between academia and industry heard in a number of conferences, seminars and forums usually turn hollow and fade away on the ground. This perspective paper tries to explore why the higher education institutions and industry fail to develop lasting associations in spite of a fair understanding about concomitant benefits that may accrue as a result of such ties. The paper provides a critique of the current scenario vis-à-vis academia industry interface especially in the context of Indian B-schools and corporate houses operating in the country. Imperatives for strengthening academia-industry collaboration have also been discussed at length so as to inspire some real-time actions on the ground for benefit of all the stakeholders.

Keywords: Academia-Industry Interface, B-schools, India

Introduction
Higher education institutions in general and B-schools in particular have infinite potential to play an important role in augmenting competitiveness of firms by providing an impetus to industrial innovation through research and development endeavours. However, relationships between academia and industry are often founded on unequal expectations and are usually characterized by contract-based sporadic arrangements which do not favour the establishment of strong and long-lasting linkages (Alves, Marques & Saur-Amaral, 2007). Dismal academia-industry linkage across the globe may be attributed mainly to mind-set divergences which obstruct mutually beneficial and long-term cooperation (Organization for Economic Cooperation and Development, 2001).

At the same time, there is an urgent need for paradigm shift in the attitude and approach of both the educational institutions and corporate houses for leveraging academia-industry interface in order to optimize their gains the knowledge-driven world. While both industry and academic institutions complement each-other in terms of creation, development and application of new knowledge and innovations, they operate with typically contrasting

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mind-sets. Industry looks at profit as the prime motive. On the other hand, academia operates in a non-profit ecosystem at a leisurely pace and is motivated by larger societal benefits rather than finding solutions to typical business problems. Usually, academia is not keen to work on business problems because ‘industry’s desired time frames are instant, and investment is guided by efforts that yield result-oriented solutions’ (Nangia & Pramanik, 2011).

Further, academics have pervasive apathy towards applied research and they are reluctant to leave the comfort zone of pure teaching; they are generally adamant when dealing with collaborative projects and typically present additional levels of restrictive internal policies and procedures that hinder innovation (Nangia & Pramanik, 2011). Majority of academics prefer to indulge in run on the mill researches primarily aimed at publications in peer-reviewed journals which are not open to case studies or reports on solutions to typical business problems. Journal publications being essential for career advancement, they overlook any opportunity to meaningfully engage with industry in finding solutions to business problems through applied research processes. There is a rat race to publish in journals with higher H Index or impact factor assigned by Scopus and Scientific Citation Index (Thomson Reuters).

Supervisors of doctoral research projects also insist on publication in journals of repute without much emphasis on how such work can be effectively used by industry or stretching themselves to reach out to industry to look at a real business problem as part of doctoral research. Even the industry prefers to work with consultants who are focused on solutions rather than academics who are always inclined to explore range of phenomena within or outside industries from a broader perspective and find generalized solutions instead of customized ones. Hence, faculty members generally loose the race to consultants when it comes to clinching real-time research projects with the corporate houses. For the same reasons, majority of B-schools in the country fail to get good number management development programs—a domain currently dominated by large training and consultancy companies. On the other hand, there are only few examples of B-schools trying to break this conundrum and coming forward with value-added offerings to the industry which might provide them a gradual foothold in the corporate world. Most of the B-schools have accepted the status quo as ground reality which cannot be challenged ever.

Challenges
There is an invisible wall that divides the academia and industry to come closer and collaborate on mutually beneficial projects and programs. Both academia and industry fully understand the value of closer ties, yet they are far from each other when it comes to working together at a deeper level. At superficial level, there seems a lot of interest in academia-industry interface. But these interfaces are limited to occasional participation in corporate guest lecture series conducted by most of the B-schools in the country and need based participation in campus placement drives for summer training as well as final placements as and when required. Superficial nature of academia-industry relations may be attributed to the perceptions held by them. Industry mainly looks at the B-schools as hot spots from where they can hire people even if they are a bit below the mark in terms of competencies. Generally, industry organizes comprehensive training programs for the new recruits so that they are able to deliver results with proficiency. Hence, they are not much
concerned about actively getting engaged with the B-schools in terms of improving the curriculum, pedagogy, skill development, etc.

B-school graduates are generally selected for jobs based on their potential and trainability during campus placement drives. On the other hand, B-schools see the industry primarily as recruiters and therefore focus on maintaining cordial (not deeper) relations with them by inviting corporate executives for guest lectures, key-note addresses in seminars and conferences and sending greetings and gifts during various festivals. Any serious attempts at obtaining their feedback on recruitment experience, quality of hires, skill gaps, etc. are missing at most of the B-schools. Again, the focus is on hospitality provided to the industry representatives visiting the B-schools during campus placement drives. Meaningful dialogue with them is simply not part of the agenda of the B-schools. Incidentally, academics and industry representatives have opposite mind-sets (Kapil, 2014).

As rightly observed by Sivaram (2015), industry and academia have fundamentally different goals and value systems —whereas industry has problems for which they seek solutions, academia comes up with solutions where seemingly there is no problem. Changing the mind-set of both the B-schools and the industry is a major challenge in the way of fostering deeper ties between them. While industry truly needs to look up to the B-schools as potential centres of excellence which might be developed further to meet their requirements beyond hiring fresh graduates, the B-schools in turn should move beyond superficial engagement and allow the industry representatives enough space in terms of influencing curriculum design, pedagogy, agenda for skill development, selection of students as part of admission panels, etc. Besides, they should be engaged in joint teaching of a few courses to begin with. If the B-schools take a leap in this direction, it is certain that the industry will also reciprocate by opening its doors to the faculty members.

Another challenge is reorienting the faculty members towards applied research by making appropriate changes in the performance management system, career advancements and incentive schemes. Globally, academic publications in peer-reviewed journals are the considered as ultimate yardstick for faculty selection, retention and promotion. Hence, initiatives by a few B-schools to incentivise applied research in business are unlikely to change the scenario. Unless concerted efforts are made by associations of B-schools and regulatory authorities, faculty members will remain apathetic towards applied research especially because they cannot publish results due to restrictions on use of proprietary data of the company.

At the same time, industry needs to develop long-term perspective on research funding so that B-schools may get opportunities to engage in applied research without worrying about additional resources. However, getting the industry on board on this is a big challenge considering their perceptible suspicion about ability of the B-schools to deliver on applied research front and fear of use of results and proprietary data of the company without permission. Thus building trust between academia and industry is a pre-condition for any deeper association in the long run. The government can also pitch in in terms of liberal funding to augment applied research by B-schools in collaboration with industrial partners.
Imperatives
B-schools need to emerge as centres of excellence in applied research in order to attract a good number of corporate houses on board for greater and deeper involvement. This first step has to be accomplished even before long-term commitments from large industrial houses. So far, the faculty members of devoted their time to curiosity-driven research. They now need to focus on market-driven researches, starting with small businesses in the community which are likely to open their doors for such initiatives under the academic civic engagement programs (Jha & Jha, 2012). Besides, the B-schools can independently take up research projects which might be of interest to the industry in order to showcase their capabilities to deliver on applied research.

At the moment, most of the B-schools suffer from poor credentials to carry out applied research, thus giving enough reason to the industry to downplay their interest in any serious engagement with them. Further, the B-schools need to open up their doors for serious engagement with the industry representatives in terms of governance. Currently, most of the boards of governors or academic councils in B-schools have only cosmetic representations from the industry. Either they are disinterested or disallowed in a polite manner to influence the working of the most of the B-schools. There are a few B-schools which are already leveraging corporate connection to improve their governance structures, curriculum, pedagogy, etc. But number of such schools is depressing. Hence, it is important that all the B-schools in India should rise to the occasion and get involved with the industry in order to change fortunes of their respective institutions.

A few good examples are unlikely to impress the industry to come forward and engage in meaningful collaborative projects. Leveraging existing level of association with industry can also go a long way in fostering deeper collaborations. For instance, summer training projects can be used as opportunities to develop case studies on industry problems with active involvement of the corporate mentors. Currently, B-schools in India have extremely poor track record of developing case studies. Moreover, visits of internship sites by faculty members can also allow them to understand the shop-floor issues. Even unstructured dialogues between corporate mentors and faculty members can help the latter understand business issues and develop their research agenda based on actual needs of the industry. Such interactions can also be used to discuss curriculum and pedagogy and obtain objective views on teaching-learning process from corporate mentors. Industry is likely to have greater interest in collaborating with B-schools at a deeper level if they aggressively pursue the three game-changing imperatives discussed above.

Conclusion
Vardiman and Mhlanga (2013) rightly observe that academia and industry complement each other in having knowledge and skills of great value to economic development –while academia is looking at industry as an avenue for growth and enhancement of the educational services it provides, industry is also looking to universities to help in educating its workforce and solve business challenges. However, there exists a wide divide between academia and industry especially in the context of management education. Current levels of industry-academia interface can at best be characterized as superficial. There are several challenges in fostering a deeper collaboration between B-schools and industry due to opposite mind-sets and orientations.
Besides, there are issues of lack of trust and mutual suspicion. As management education in India is trying to revitalize in the wake of declining interest number of MBA aspirants, it is important for the B-schools to strengthen their ties with industry by enhancing level of interfaces –moving from shallow to deeper associations. This is possible if the B-schools take the first step instead of waiting for the industry to come forward and build the bridges. It is sure that the industry will take note of any serious effort by the B-schools to add value to existing management practices or come up with game-changing innovations.

References
Democrats and Dissenters: A Critique of Post-independent Intellectual Discourse

Priya S.*

Abstract
This article reviews a recent book titled ‘Democrats and Dissenters’ by Ramchandra Guha (Allen Lane, 352 pages, Rs. 699, 2016). It is a collection of incisive essays on politics, society, ideologies and intellectuals. The book is based on anecdotal information, author’s travel experiences and his superb analytical skill as well as profound wisdom. It represents liberal voice of contemporary India and provides hope for those who have conviction of dissent.

Keywords: Democracy, Liberalism, Dissenting voices, India

‘Democrats and Dissenters’ (2016) is a set of sixteen essays exploring author’s research interest on the dynamic growth of Indian Republic after independence. The author has used his core research strengths in history, comparative sociology and politics to analyse issues that influenced Indian society and politics. The book is rich in content and has a lucid narrative. The first part of the book on ‘Politics and Society’ has eight essays dealing with a range of topics covering political parties, leaders, neighbouring countries and tribal affairs. The second part is more intriguing and engaging as it discusses the life and contributions of seven great academicians. Though an unbiased historian, author has not repressed his personal and political convictions and judgments throughout the book.

The first chapter explores the reasons for gradual decline in the strength and presence of Indian National Congress in the Indian political domain. Author has used a historian’s perspective to identify the constructive role played by Congress in building a democratic and united India, amidst presence of factionist elements and challenges. Two decades preceding and succeeding Indian Independence (1920-1960) was particularly challenging for Indian political, social, and economic system. Author has credited the leadership of Congress Party during this time period for becoming the torchbearer of democracy in India while raising bars of socialism and holding on to principles of secularism. Along with Gandhi, there is also reference to role of regional leaders like Kumaraswamy Kamaraj in nation building process. As the essay progresses, the author is deeply critical about the dynastic politics in the party

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and blatantly expresses his deepest disappointment in party’s present state of affairs and leadership.

The second chapter identified eight key issues, which he considers as the greatest threats to the freedom of expressions in India. This chapter carries lot of relevance following the recent debate about freedom of expression and revoking the archaic sedition laws in India. Author points out the retention of colonial law as one of the major threats to the freedom of expression. He also points out the inability of judicial system particularly, the lower courts in segregating and rejecting the politically motivated cases. The rise of identity politics in India, corruption and functioning of law enforcement agencies, narrow-minded behaviour of Indian politicians is also a case in point where even renowned artists had suffered. Author has painstakingly narrated the failure of fourth estate and the commercial dependence of media houses on industrial houses and deliberated on how the government has handicapped their performance and affected journalistic ethics. Biased ideological orientation of intellectuals (writers/film makers/editors/artists) is also a potential threat highlighted by the author.

The third chapter is constructed through quoting a series of written communication between Jawaharlal Nehru and Jayaprakash Narayanan, which has so far not been discussed widely in the public domain. The two parliamentarians indulged in an extensive and politically productive debate on the merits of parliamentary system of democracy. J.P. Narayanan argued the dire need for a focused and well-functioning opposition party in the parliament. While Nehru in course of the communication had conceded that the parliamentary system of democracy has its faults and its success depends much on the human beings who runs it. The author has crafted the chapter to highlight the relevance of intense intellectual and politically charged debates on policy matters, which is lacking among today’s politician.

The three essays that followed discuss about India’s neighboring nations China, Pakistan and Srilanka by comparing the common threads of plural faith and multilingualism. Author displays his gutsy traits while drawing comparisons between Tamil Elam issues in Srilanka and Kashmir debacle in India. Where talks of human right issues in Kashmir is considered non-patriotic, the author is assertive on how Indian government has let down the Kashmiri population since independence and how the respective governments have treated them as less than ‘complete citizens’. A common thread of gender equality issues in three countries reflected in the book also make interesting reading. The fourth chapter offers a comparative focus on China and India. According to the author, China is less pluralistic and less accommodative of ethnic, religious and linguistic diversities compared to India. The essay on Pakistan too relies heavily on personal experiences of visiting Pakistan on three different occasions. Author has made interesting observations of finding pan selling Keralite, Sikhs and Gujaratis who were settled in Pakistan. Author has attributed cold war politics as one of the reasons for long-standing negative effect on Pakistan democracy. Unlike Pakistan, India chose the non-alignment movement, which ensured that the army battalions were confined to its cantonments only. Author observes Srilanka as a progressively democratic country in the next chapter where the nation had its share of grave intolerance perpetuated against the linguistic minority, which led to three-decades of bloodshed that wrecked the state.
In the succeeding chapter author observes another critical issue on Indian democracy, the lack of political representation of Tribals. Tribals in general have been broken up groups in states unable to reinforce themselves as an interest group. The essay derives on direct comparison between Dalits and Tribals which in itself is a contentious argument. But he is right on his view that Dalits have more power during elections as compared to Tribals.

The last chapter of the first section, navigates through eight different years of independent India. Author choses events that has changed or affected Indian political psyche deeply. The chapter reviews many saddening and turning points in Indian history. Independent India’s first struggle started with partition and author finds 1948 as a strong challenger for worst year category in Indian history. The other picks made by the author include the years in which all major wars were fought by India including the 1962 (Ind-China) and 1966 (Indo-Pak) war. The internal unrest in northeast, Adivasi protests in Bastar, Starvation and food riots in West Bengal, and devaluation of Indian rupee, make the year 1966 stand out in the lot. The year ‘1975’, could easily be marked as the darkest year of Indian democracy due to Emergency episode. Author shortlists the year ‘1984’ as a contender, as it was marked by Blue star Operations in Golden Temple, assassination of Mrs Gandhi , attack on the Sikh community and the Bhopal gas tragedy. Other two picks made by the author are when the secular tradition of Indian democracy was shattered [the demolition of Babri Masjid (1992) and the Gujarat riots (2002)]. 2008 is discussed by the author as it witnessed a terror strike(Mumbai), and internal disturbances (Kashmir, Orissa, Telengana, Northeast), natural calamities as well as experienced repercussions of Global Financial Crisis. Despite an interesting narration, author chose not to pick any particular year as the worst one.

In the second section on ‘Ideologies and Intellectuals’, author has painstakingly portrayed the body of work of seven renowned scholars. Author begins by paying tribute to illustrious Eric Hobsbawm whose contribution include employing multidisciplinary and wide range of non-traditional sources to address the research problem. Author has been emphatic about the fact that the traditional Marxist approach of the great historian has made him ignore the shady and violent incidents of communism. He was also sceptical about emerging areas like environmental history. The essay also points out that the historian rather had an optimistic view on pro-immigration policies in Europe, which was eventually shattered as we could conclude from the current context of migration turmoil faced by Europe.

The following essay dwells on the works of the Benedict Anderson, who had immersed his academic life studying about Indonesia. Author also curiously highlights a personal interaction where an intriguing question of whether India could have survived as a democracy without partition was pointed out. He also highlights the scholar’s admirable ability to transcend the thematic polarities of structure and agency, interests and ideas, economy and culture. The illustrious scholar is best known for his best seller-Imagined Communities, but author has discussed about his other major scholarly works in detail also. Imagined Communities compares the concept of nationalism of nineteenth and twentieth century through case studies. In the current context of Indian nationalism debates, Anderson’s celebrated work on nationalism would evoke huge interest. Author points out that while the great scholar appreciated the fact that nationalism could evoke hope and self-sacrificing love, it should also encourage self-criticism and self-correction. These viewpoints could stand the tests of time.
The essay titled ‘The Life and Death of a Gandhian Buddhist’ introduces to the life and work of Buddhist Scholar and Academician Dharmanand Kosambi whose journey has hardly been discussed in public realm. Prof Kosambi was a true follower of Gandhi and chose to leave academic career in USA to join the freedom movement. It also reflects interesting aspect of Mahatma Gandhi’s efforts towards pooling funds to send a scholar to Ceylon to study Buddhism and Pali language, amidst the furore surrounding the freedom struggle movement.

The fourth and fifth essays in this series are on life and work of renowned sociologist Andre Betlie and economist Amartya Sen respectively. Betlie who has done ethnographic study of a village in south India (Tanjore) for his doctoral work, has been a pioneer in developing a social theory for India and hold the view that ‘merit’ or ‘need’ cannot be an attribute of a group but an individual. While sociologists supports the idea of giving concessions and protection to a group for a limited time. He was also pessimistic about the idea of protective discrimination to a group for an unlimited time. This principle was applied in the context of reservations in India.

The essay on Amartya Sen primarily is a revised critical review of Sen’s book-Argumentative Indian, which was earlier, published on Economic and Political Weekly. Author is appreciative of Sen’s effort to elucidate incidents in history to construct the idea of harmonious society. But he is equally critical about Sen’s interpretation of historic anecdote to link past with the present.

The essay on Dharma Venkataraman, is a memoir by the author to his mentor and who was a pioneer in the field of socio-historical research. Dharma, who endorsed rigorous research methods primary data held the view that “past cannot be used to justify or condemn policies of the present”. This specific narrative was used by the author to criticize Amartya Sen’s approach in the previous chapter, which also reflects the tremendous influence of the mentor on author’s methodological beliefs. Author also highlights the instances when she has taken controversial viewpoint on sensitive issues. Amongst the most interesting one is her ‘behind the scene’ efforts to publish an advertisement in Times of India(30 Jan 1993) bringing together a series of signatories condemning the Babri masjid and riots. The essay on U. R. Krishnamoorthy brings together all facets of an English language teacher who donned many hats. He was a firebrand intellect who had taken compelling positions against Congress party during Emergency, Babri masjid and lately he was a visible critic of Narendra Modi (2014). The concluding chapter, ‘Where are the conservative intellectual in India’, author carefully analysis the prominence of liberal and socialist intellectuals in Indian political and academic space and laments about the lack of conservative intellectuals particularly when right wing political party is in power in India.

The book is indeed a brilliant analysis on the political and sociological history of modern India and must read not only for academic researchers but also for those keen observers of Indian polity.