

INDIAN INSTITUTE OF PUBLIC ADMINISTRATION

Karnataka Regional Branch, Bengaluru

ಭಾರತೀಯ ಸಾರ್ವಜನಿಕ ಆಡಳಿತ ಸಂಸ್ಥೆ ಕರ್ನಾಟಕ ಪ್ರಾದೇಶಿಕ ಶಾಖೆ <u>Virtual Newsletter</u> ವಿಧ್ದುನ್ಮಾನ ಸುದ್ದಿಪತ್ರ

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Chief Editor





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A Note from the Chief Editor



S. Ramanathan, IAS (Retd.)
Chairman
Indian Institute of Public Administration
Karnataka Regional Branch, Bengaluru

I am happy to place before our readers the **December 2021** issue of our *Virtual Newsletter*. This is our 17th issue, since we began this initiative.

Our Branch had two distinguished visitors from the IIPA, New Delhi, the **Director-General Mr. S.N. Tripathi**, IAS (Retd.) and **Prof. Dr. Kamla Kant Pandey**. They were in Bangalore, with participants of the 47th Advanced Professional Programme in Public Administration (APPPA), as a part of its urban field visit. They were kind enough to drop in at my residence, to pay a courtesy call.

The Lead Article, this time, is by Mr. V. Balasubramanian, IAS (Retd.) on 'The Adversarial and Inquisitorial Systems of Justice'. He also spoke on the same theme in two city colleges. Reports of the events are carried in this newsletter.

In our section on *Audit Matters*, Mr. T. Sethumadhavan, IAAS (Rtd.) reports on the celebration of '*Audit Diwas*' in New Delhi on 16th November 2021.

In our **Policy Initiatives - Karnataka** section, we mention the announcement made by the **Chief Minister of Karnataka** that a new Employment Policy for providing incentives to industries and entrepreneurs who provide the maximum number of jobs, will be formulated.

And in our **Book Review** section, we carry a review of a recent e-book on *Money and Politics* by **John Scales Avery**. The book has been reviewed by **Dr. D. Jeevan Kumar.**

I wish to add a disclaimer here that the views expressed by the contributors in this issue are personal and do not represent the views or position of the Editorial Board or the Executive Committee of the Branch.

Do write in, with your responses	views and ideas for improvement of the Newsletter.

The Director-General of IIPA, New Delhi, Mr. S.N. Tripathi, IAS (Retd.) and Dr. Kamla Kant Pandey, Professor, IIPA, were in Bangalore, with participants of the 47th Advanced Professional Programme in Public Administration (APPPA), as a part of its urban field visit. Mr. Tripathi (extreme left) and Dr. Pandey (extreme right) are seen below with Mr. S. Ramanathan, Chairman of the Karnataka Regional Branch, and Mrs. Ramanathan, at their residence.



Lead Article

The Adversarial and Inquisitorial Systems of Justice



Mr. V. Balasubramanian, IAS (Retd.)
Former Additional Chief Secretary
Government of Karnataka

India follows the Anglo-Saxon Adversarial System of Law, the founding fathers of Indian Constitution mostly having studied the British Law based on Common Law. This system is followed by Britain and its former colonies. However, rest of the world—continental Europe, South America and Asian countries follow the *Inquisitorial System of Justice*. The highlights of **Adversarial System** are:

- (a) The accused is innocent until proved guilty,
- (b) It is for the prosecution to prove the guilt of the accused and not for the accused to prove his innocence,
- (c) The guilt of the accused should be proved by the prosecution Beyond Reasonable Doubt.
- (d) Judgements of Courts (case law) and precedents have a large weightage in subsequent trials,
 - (e) No one can be tried more than once for the same offence,
 - (f) Let a hundred guilty go free but let not one innocent be punished,
- (g) The Judge is a neutral Umpire and has to weigh the evidence by witnesses of Prosecution and Defence brought before him and give a verdict.

In contrast, under the **Inquisitorial System**, the Judge takes an active part in dealing with the Prosecution, Defence and witnesses of both. The highlights of this system are:

- (a) It is a Judge-centred system where the Advocates for Prosecution and Defence have a subsidiary role; written law is adhered to (from the tradition of Babylon's King Hammurabi Code of 282 Laws in 4130 lines in stone stele of 18th century BCE incorporating the strict principle of *Lex Talionis*—'Eye for an Eye', with the objective of protecting the weak from the strong);
- (b) The Investigation is done by the Police but under the supervision of an Investigating Judge in serious cases of criminality and corruption, and for lesser offences by the Prosecutor who himself is also a Magistrate;
- (c) The Judges are selected, for instance in France, by the *École Nationale de la Magistrature* or ENM (in 2021, 4612 law graduates were candidates for 150

- admissions) to form a Corps of Judges who are selected for all posts of Trial Judges, Investigating Magistrates and Prosecutors—all being equal in status and interchangeable;
- (d) The objective of the system is for the Judge not to be just an umpire, but to 'Arriving at the Truth', and not to just decide whether the guilt of the accused is proved or not;
- (e) The Judge himself can ask questions to the witnesses and even examine the accused and can commission experts on his own to give evidence before the court;
- (f) The burden of proof is not entirely on the Prosecution and in some aspects of the case, also rests on the accused, as the judge may decide;
- (g) The Judge can compel the accused to make a statement unlike in the Adversarial system that the accused need not take the stand if it is not in his interest;
- (h) The victim can be present when the Investigating Magistrate or the Prosecutor or the Police is recording the statement of the accused and can ask questions;
- (i) It is the duty of both the Prosecution and Defence to help the Judge arrive at the truth and not winning the argument against each other.

Thus, the difference between the two systems starts at the investigation stage itself. While in India the investigation of an offence is done by the Police, which works under the bureaucracy and the Home Minister, under the Inquisitorial system the Police investigation is under the supervision of a Magistrate, and the political head of administration cannot interfere in it. Under the Inquisitorial System, the Judges (Magistrates) are recruited through a competitive examination of law graduates before the age of 25 and, after training in a Central Academy (like the National Law School—NLSUI) which includes both academic and practical training for a total of three years, are posted as Prosecutors, Investigating Magistrates and Trial Judges by rotation so that each works in the other two capacities. More serious crimes such as murders, grievous hurt, corruption in high places, etc. are supervised by Investigating Magistrate and less serious crimes by the Prosecutor. As a result, false and frivolous cases are not brought for trial while ex-Presidents and Ministers are prosecuted by the independent Investigating Magistrates. For instance, in 2011 an Investigating Magistrate investigated the corruption charges against the former French President Jacques Chirac. He was charge-sheeted, stood trial and sentenced to two years imprisonment. Christine Lagarde, the Finance Minister of France and later President of IMF was prosecuted and convicted for Francois Fillon, a former Prime Minister, was sentenced to five years imprisonment. Jerome Cahuzac, another Finance Minister, was sentenced in 2016 to three years imprisonment for tax fraud. Nicolas Sarcozy who was President till 2012 was sentenced to three years imprisonment in 2021 on corruption charges. In Italy which follows the Inquisitorial system, Silvio Berlusconi who was Prime Minister for eleven years was sentenced to three years in 2015 for bribing a senator.

Under the Adversarial system in India, this will never happen. No political leader, no top bureaucrat or a Minister has undergone imprisonment with very rare exceptions such as Om Prakash Choutala, former CM of Haryana and the late Jayaram Jayalalithaa, former CM of Tamil Nadu. In the latter case, while the Special Judge sentenced her to 4 years imprisonment and Rs.100 crore fine after the trial lasting for 18 years but on appeal the single bench of High Court acquitted her. On State's appeal, the Supreme Court upheld the order of the Special Judge but reserved its Judgement for 8 months till the Accused No.1 died and the case against her 'abated' so that her properties were not confiscated.

Besides, under the Indian system, the many accused of criminal offences are going free because of the principle of 'Beyond Reasonable Doubt', there is enormous delay due to six layers of appeal and countless adjournments, and therefore there are 3 crore cases pending in the higher courts of India, involving enormous cost and cases going on for two or even three generations when both the petitioners and accused are dead due to old age. Litigation is the second important cause of rural indebtedness, besides health expenses. The basic feature of direct recruitment of judges under Inquisitorial System who will supervise investigation, prosecution and trial is not followed in India. Even though in 1992 the Supreme Court directed the Union Government to form the All India Judicial Service on the model of All India Services like the IAS, IPS, IFS, etc. by competitive examination through the Union Public Service Commission which is the single, solitary institution in India never accused of corruption—no paper leakage, no bribes-for-jobs, no favouritism—this has not been done due to the opposition of States who want to retain political patronage of recommending judges for higher judiciary and appointing lower judiciary on the basis of weightage for caste, community and heredity with merit of no consequence.

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Report of November 2021 Activities of the Branch

1. The Karnataka Regional Branch, in association with the University Law College of Bangalore University, organized a Special Lecture by Mr. V Balasubramanian, IAS (Retd.) on 'The Adversarial and Inquisitorial Systems of Justice' on 24th November 2021. Pointing out the limitations of the Anglo-Saxon Adversarial System being followed by India, the speaker made out a case for the Inquisitorial System which has the following advantages: It is Judge-centred, as the investigation is done by the Police but under the supervision of an Investigating Judge in serious cases of criminality and corruption. Here, the objective of the system is for the Judge not to be just an umpire, but to 'Arriving at the Truth', and not to just decide whether the guilt of the accused is proved or not. Prof. Dr. Suresh Nadagoudar, Principal of the University Law College, presided over the lecture-discussion. Dr. Jyothi Vishwanath, Asso. Professor, welcomed the guests. Dr. D. Jeevan Kumar proposed a vote of thanks.



Below: Mr. V. Balasubramanian and Dr. D. Jeevan Kumar, with the Faculty of University Law College, Bengaluru, and the student volunteers. Seen from left to right (standing) are the following: Smt. B. G. Shivkumari, Dr. N. Sathish Gowda, Prof. Dr. Suresh V. Nadagoudar, Mr. V. Balasubramanian, Dr. D. Jeevan Kumar, Prof. Dr. N. Dashrath, Prof. Dr. V. Sudesh, Dr. Jyothi Vishwanath and Dr. L. Chandrakanthi.

Kneeling in front are the **Student Volunteers**. They are (from left to right): **Deepashree Gowda**, **Arslan M Zaidi**, **N. Praveen Kumar and Mohit U. Thodaskar**.



2. The Karnataka Regional Branch celebrated 'Samvidhan Divas' on 26th November 2021 in association with KLE Society's Law College, Bengaluru, with another talk by Mr. V. Balasubramanian, IAS on 'The Adversarial and Inquisitorial Systems of Justice'. Prior to the lecture, Dr. D. Jeevan Kumar, Secretary of the Branch, spoke on the significance of 'Constitution Day'. Prof. Dr. J.M. Mallikarjunaiah, Principal of the College was in the chair (seen below at extreme left). Dr. Chaitraprasad, Asst. Professor of Political Science welcomed the guests. Mr. Ashwary Sharma, Asst. Professor of Law proposed the vote of thanks.



The YouTube link to the programme at **KLE Society's Law College** is given below: https://youtu.be/RYBHRtEcFi8

<u>Audit Matters</u> Celebration of 'Audit Diwas' by the CAGI





Mr. Thayyil Sethumadhavan, IAAS (Rtd.)

The Comptroller & Auditor-General of India (CAG) celebrated 16th November, 2021 as 'Audit Diwas'. The day is of special importance to Public Auditors in view of the fact that the first Auditor-General of the country had taken over on 16th November, 1860 after the passing of the Government of India Act, 1858, by merging the Accounting Departments of Bengal, Madras and Bombay Provinces. Mr. Girish Chandra Murmu, the CAG of India, during the ceremony held in the Office of the CAG on 16th November, 2021, in the presence of the Honourable Prime Minister of India, declared that the Audit Diwas will be celebrated every year with a view to rededicating and reaffirming the commitment of the IA&AD to contribute to the quest for excellence in Public Audit and Accounts.

The Prime Minister, **Mr. Narendra Modi**, addressed the event marking the celebration of the first *Audit Diwas*. He also unveiled a statue of Sardar Vallabhbhai Patel in the premises of the Office of the CAG. Addressing the gathering, the Prime Minister said that the mindset of "CAG *vs*. Government" has changed. The CAG does not *just* keep track of the nation's

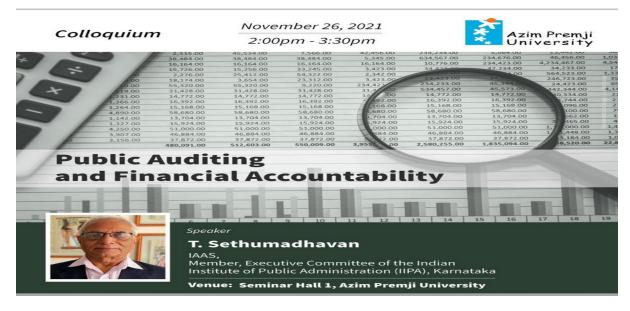
accounts, but also does "value addition" in terms of productivity and efficiency by adopting modern procedures such as advanced analytics, geo-spatial data and satellite imagery. The Prime Minister emphasized the importance of data management, and stated that in the coming times, our history will be seen and understood through data analysis. The Prime Minister added that the CAG is an institution which has grown in importance and has created a legacy for itself over passage of time. The Prime Minister also mentioned that the Government has been devising systems where the interference of the Government (*Sarvam Sarkar*) is decreasing which will correspondingly reduce the workload of auditors.

Mr. G.C. Murmu, CAG, brought to notice that in spite of the constraints imposed by the pandemic, the CAG had presented as many as 123 Audit Reports, including 67 Performance Audit reports, during the year 2020-21. The Department had re-oriented the approach to audit to bring in social focus and specialization in audit planning and reporting. The CAG is also promoting National Resources Accounting as an important environment tool. A major initiative by the IA&AD in data management and data analytics was the data-driven audits conducted in respect of programmes such as Direct Benefit Transfers (DBT), Ayushman Bharat etc. IA&AD has also devised an Audit Process Management Application (APMA) to cover the entire chain of audits; and a data-linked information system where fund-flow up to voucher-level compilation could be harnessed for audit planning, keeping in mind the principle of "Follow the Rupee" and the axiom "where there is government expenditure, there is audit".

The Report of the CAG on the **Performance Audit of the Storm Water Drains** (SWD) Management in Bangalore was selected as the **Best Performance Audit Report of the Year**. **Ms. Nivedita Raju**, former Principal Accountant General, Karnataka, who pioneered the audit received the award for the Best Report of the Year. The contents of the above report were included in the IIPA (KRB) Virtual Newsletter (Vol. 2 No.15) of October, 2021.

IIPA-KRB EC Members in the News

Mr. T. Sethumadhavan, IAAS (Rtd.) delivered a talk on "*Public Auditing and Financial Accountability*" at Azim Premji University on 26th November 2021 (*See Poster below*). The next issue of our Newsletter will carry an abridged version of his lecture.



<u>Karnataka – Policy Matters</u> Karnataka to Frame New Employment Policy



Chief Minister Sri Basavaraj Bommai said that the Karnataka Government will come out with an employment policy for providing incentives to industries and entrepreneurs who provide the maximum number of jobs. Karnataka would also formulate an R&D policy to promote research and development across all sectors of the economy.

After inaugurating a workshop on '*Udyami Aagu*, *Udyoga Needu*' ('Be an Entrepreneur, Become an Employer') and Kaigarika (Industrial) Adalat in Bengaluru recently, the Chief Minister said, "The need of the hour is to provide jobs. Whoever gives more jobs, maximum incentives will be given to them under the (proposed) new employment policy."

The programme, organised by the Department of Industries and Commerce, aims to encourage professional youth and students to take up entrepreneurship and employment generation.

Sri Bommai told students that money alone was not enough. "It is through hard work that one can become an entrepreneur. Consciousness of time and hard work are the hallmarks of an entrepreneur," he said.

The Chief Minister said a synergy between academia and industry needs to be achieved for conducive growth of industries and the job market. Many incentives were being provided to entrepreneurs under the **Industrial Policy (2020-25)**, he said.

Section 109 of Karnataka Land Reforms Act, 1961, had been amended for acquisition of farm land for industrial purposes. The start-up policy, semiconductor policy and other policies have transformed Karnataka into an industry-friendly State. The government has provided ₹50 lakh grant-in-aid each for many start-ups in Bengaluru, and in tier II and III cities. Skilled training would be provided to 75,000 candidates belonging to Scheduled Castes and Tribes, and women graduates, he said. The Industries Department has been holding skill training programmes in various sectors and offering career guidance.

Former Chief Minister **Sri B.S. Yediyurappa** spoke about policies introduced for the benefit of entrepreneurs during his tenure. IT/BT and Higher Education Minister **Sri C.N. Ashwath Narayan**, Cooperation Minister **Sri S.T. Somashekar**, and Mines & Geology Minister **Sri Halappa Achar** were present at the event.

Bengaluru Matters

Engineer offers free help for rainwater harvesting

Ganesh
Shanbhag works
with apartment
owners to put
Bengaluru's
copious rains to
good use

ASRA MAVAD TEAM METROLIFE

oftware engineer Ganesh Shanbhag has developed a simplified rainwater harvesting (RWH) system that is helping fellow Bengalureans conserve water and save money. Since 2019, he has helped about 150 apartment complexes set up RWH systems in the city, all for free.

When the borewells at his apartment complex in Begur ran dry in 2018, he teamed up with like-minded residents to develop this system. The residents chipped in with Rs

The residents chipped in with Rs 20,000 for materials and the plumbing



Rainwater harvesting calls for pipes, filters and a sump. Since 2019, Ganesh (inset) has helped about 150 apartment complexes set up RWH systems in Bengaluru.

services range from 1 to 3 lakh, depending on the structure, roof area, height of building and location of underground sumps. Ganesh usually draws up a customised plan.

He divided his apartment terrace into smaller sections and installed the RWH

system in phases.

"We have a 3,700 sq ft terrace, so it didn't make sense to cover the entire area at one go. This is what I suggest to everyone who comes to me for help as well. It is easier on the pocket too," he says.

SAVING RS 50,000 A MONTH

About 45 minutes of rain can provide approximately two lakh litres of water. "Our apartment complex has four storeys and this is usually enough for four to five days. Since we installed our RWH system, we have been saving about Rs 50,000 every month in water bills," Ganesh says.

In 2021, he worked on a program that simplified planning and implementation of RWH systems.

"People have to fill up a form and the automated system comes up with all possible solutions to save rainwater, and also to solve other problems like sewage management," he explains.

Ganesh customises the plan and puts apartments in touch with authorised service providers. "You get returns on investment within two to three years," he says.

As a founding member of the I Live Simply chapter in Bengaluru and a core member of the World of Water Action Forum, Ganesh has played a key role in water conservation and conducts workshops.

(Ganesh can be contacted on ganesh4889@gmail.com)

E-Books

Economics and Ethics: Should Greed be our Guide?

D. Jeevan Kumar

Money and Politics

John Scales Avery

November 2021

If politicians continue to use money as a guide in making decisions, we will lose the battle to save human society...

The author's hypothesis is as follows: Many countries that call themselves democracies are actually oligarchies, controlled by the richest members of society. This is because, notoriously, politicians can be bought. It would therefore be highly desirable to sever the connection between money and politics.

Today, the Scandinavian countries, Denmark, Norway, Sweden, Finland and Iceland, are nearer to being true democracies than most other countries in the world. This is because the contrast between rich and poor people is far less than in most other nations. The Scandinavian countries have very high and steeply progressive income taxes, where the rich are so heavily taxed that it is difficult to become extremely rich. Nor can one be very poor. Extreme poverty has been eliminated by Scandinavian social safety nets. This is, of course, a form of socialism, but one should be aware that the Scandinavian nations have market economies. with large private sectors.

The author states that societies with more equal distribution of incomes have better health, fewer social problems such as violence, drug abuse, teenage births, mental illness, obesity, and others, and are more cohesive than ones in which the gap between the rich and poor is greater. Furthermore, when the contrast between rich and poor is very great, economies do not function well. The poor do not have the money needed to buy back the output of their societies, while the rich are too few in numbers to do so.

An overwhelmingly important reason for getting money out of politics is the climate crisis that we face today, states Avery. If politicians continue to use money as a guide in making decisions, we will lose the battle to save human society and the biosphere from the catastrophic long-term effects of climate change. What will happen if we lose the battle to save the earth? Then most of the world will become uninhabitable, starting with tropical countries, low-lying countries such as Bangladesh and the Netherlands, and all coastal cities. In the long term, almost all of the earth's surface will become uninhabitable. There is also the danger that the struggle for habitable space will result in deadly conflicts.

The e-book is divided into nine illuminating chapters. The first chapter titled, 'Economics without Ethics' asks and answers the big question: Should Greed be our Guide? The subsequent chapters very appropriately deal with Money and Climate Inaction, Money and War, Money and the Deep State, Money and the Mass Media, and Money and the Green New Deal.

In the concluding chapter, Avery states: "Modern science has, for the first time in history, offered humankind the possibility of a life of comfort, free from hunger and cold, and free

from the constant threat of death through infectious disease. At the same time, science has given humans the power to obliterate their civilization with nuclear weapons, or to make the earth uninhabitable through overpopulation and pollution. Will we use the discoveries of modern science constructively, and thus choose the path leading towards life? Or will we use science to produce more and more lethal weapons? Will we thoughtlessly destroy our beautiful planet through unlimited growth of population and industry? The choice among these alternatives is ours to make. We live at a critical moment of history - a moment of crisis for civilization."

Avery is convinced that the problem of building a stable, just, and war-free world is not impossible. We must replace the old world of international anarchy, chronic war and institutionalized injustice, by a new world of law. The United Nations Charter, the Universal Declaration of Human Rights and the International Criminal Court are steps in the right direction, but these institutions need to be greatly strengthened and reformed. We also need a new global ethic, where loyalty to one's family and nation will be supplemented by a higher loyalty to humanity as a whole.

Avery asserts that the decay of democracy is not inevitable. Oligarchy is not inevitable. These evils are the result of neglect and political irresponsibility. As citizens, we must have the courage to restore democracy in countries where it has disappeared, and to create it in countries where it never existed. We live in a special time, a time of crisis.

Avery concludes with a set of ten responsibilities for politicians, economists and for each one of us:

- 1. We need system change, not climate change!
- 2. We need a new economic system, a new society, a new social contract, a new way of life.
- 3. We must achieve a steady-state economic system. Limitless growth on a finite planet is a logical absurdity.
- 4. We must restore democracy in countries where it has decayed, and create it in countries where it never existed.
- 5. We must decrease economic inequality.
- 6. We must break the power of corporate greed.
- 7. We must leave fossil fuels in the ground.
- 8. We must stabilize and ultimately reduce global population to a level that can be supported by sustainable agriculture.
- 9. We must abolish the institution of war before modern weapons destroy us.
- 10. And finally, we must develop a mature ethical system to match our new technology.

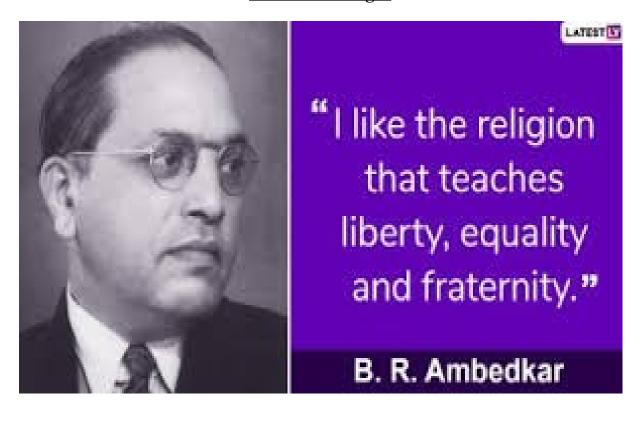
John Scales Avery is a theoretical chemist at the University of Copenhagen, noted for his books and research publications in quantum chemistry, thermodynamics, evolution, and history of science. Since 1990, he has been the Chairman of the Danish National Group of

Pugwash Conferences on Science and World Affairs. He also served as Chairman of the Danish Peace Academy. Despite being an accomplished scientist, it is heartening to note that there is no trace of scientific fundamentalism in his worldview and in his writings. His current concerns are guided by a deep understanding of the state of Economics, Politics and Ethics around the world. They call for deep introspection, as well as action.

The e-book under review may be downloaded from the following link:

https://eacpe.org/content/uploads/2021/11/Money-and-Politics-by-John-Scales-Avery.pdf

Food for Thought



Feedback

Dear Sir,

Thank you very much for the newsletter of November-2021.

Public Affairs Index figures in respect of Karnataka leaves much to be desired on Equity and still a large gap to be covered on Overall Performance due to obvious reasons of perennial corruption, apathy of the people in power (both politicians and bureaucrats) to people's woes and no mind to embark on continuous path of incremental increments all round. Many international bodies have adopted global models on this front and it is high time Karnataka which boasts of having a Silicon Valley should embrace some such model with suitable modification to move on improvement path.

Mr. Ravindra's book *Governing an Indian State: Karnataka in Focus* is another addition to the much-known problems suffered by the citizenry at large. Nevertheless, it is an essential reminder of the cancer spreading in the society under our public administration which we feel shy of talking about. Recently, at a national forum, people were crying hoarse of inadequacy of resources while nobody was ready to raise the issue of lack of accountability and corruption which are pulling our GDP down by 3-4 % which is very significant from the resource point of view.

E newsletter is providing a good platform for people to exercise grey cells, though we may fail to transform our world.

Wng. Cdr. (Rtd.) Aspari Raghunath

IIPA-KRB Virtual Newsletter

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