

LIBERALISM IN INDIA

PAST, PRESENT AND FUTURE



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Essays in Honour of S V Raju

Edited by Parth J Shah

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For more information and other requests, write to:

Centre for Civil Society

A-69, Hauz Khas, New Delhi – 110016

Phone: +91 11 26537456 | Email: ccs@ccs.in | Website: www.ccs.in

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Even in his passing, Mr. Raju helped convene liberals to discuss the past, present and the future of liberalism in India. This turned out to be the most diverse group of liberals ever to assemble in recent times—from the old and the young, liberals, libertarians and conservatives, organisations (think tanks and do tanks) and individuals (politicians, public intellectuals, authors, columnists, activists). The result of that convening is the book you have in your hands—the S.V. Raju *Festschrift*.

The chapter authors deal with some of the classic dilemmas of liberalism. For liberals, the fundamental political value is liberty—the value that makes any political association liberal. The liberals also cherish equality, fraternity, security, social justice, and often pursuit of these other values conflicts with liberty. Each political association at any specific time and place has to find norms, rules, laws or a constitution to resolve this tension. Many of the authors attempt to address this conflict of liberty and other values for the India of 2016.

One set of chapters in the book addresses the tension between liberty and other values. The other set of chapters articulate implications of

liberty—decentralisation of governance, religious and cultural freedom, a liberal constitution. So all the chapters in the book could be divided into two buckets—‘liberty conflict’ and ‘liberty implications.’

Before I classify the chapters, let me present the profoundly simple and insightful resolution to the ‘liberty conflict’ issues. It is a decalogue or ‘Ten Cannots’ from the American pastor William John Boetcker (1873 -1962), often wrongly attributed to Abraham Lincoln:

- You cannot bring about prosperity by discouraging thrift.
- You cannot strengthen the weak by weakening the strong.
- You cannot help little men by tearing down big men.
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- You cannot help the poor man by bringing down the rich.
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- And you cannot help men permanently by doing for them what they can and should do for themselves.

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- Liberty vs equality (Gurcharan Das)
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FNF pursues these goals, which are part and parcel of the great Indian democratic tradition embodied in the Constitution, in partnership with policymakers, business leaders, national and international NGOs, universities as well as journalists and think tanks.



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1

The Mind of the Indian Liberal: Liberal Thought in India

HINDOL SENGUPTA

In 2012, by the time I finished writing my personal history of liberalisation in India, *The Liberals*,¹ I realised my underlying theme had inevitably become liberalism in India. I had turned the gaze inwards and asked, ‘did liberalisation make us more liberal?’

This question has haunted me through many years because each time one feels India has crossed a point of no return in more openness, and focus on the individual rather than the collective, the rule and ideas of the crowd return with a vengeance. Can any country be so bewilderingly liberal and yet so exasperatingly illiberal at once?

I believe, two simultaneous and parallel realities have dominated Indian history. While the Indian mind has forever sought freedom and liberty, the Indian society, even though its diversity suggests endless negotiating space for freedom, has often stifled individual rights in the name of collective will.

But why is this so? This is perhaps because Indian institutions and Indian intellect have more often than not failed to move in tandem. Where does the Indian liberal mind seek inspiration from? Where ought it?

The genesis of Indian liberalism is in the works of Rammohun Roy in the nineteenth century where he advocates against Hindu orthodoxy, engages with Brahmo thought and fights against *sati* (the orthodox Hindu practice prevalent at his time of widows self-immolating at the pyre of their husband). I think the underlying principle, the foundation

of Indian liberal thought, comes from Roy's understanding of Vedic and Upanishadic principles and correlating them with his reading of monotheism.

'Over himself, over his own body and mind, the individual is supreme,' wrote John Stuart Mill in *On Liberty*. Roy, who wrote the celebrated *Abridgement of the Vedant*, knew that if, as the Upanishads said, the Self is indistinguishable from the ultimate Truth, then it only goes to follow that liberty and freedom for that self ought to be the answer.

An argument Rammohun Roy made in a letter written in 1809 is the perfect example of his belief in liberalism. Roy wrote to Governor General Lord Minto a petition complaining against a district collector called Sir Fredrick Hamilton. Rammohun Roy is travelling in his palanquin and fails to notice that he is passing by an Englishman standing on the road. The failure to acknowledge a collector leads to an altercation when Hamilton abuses Roy even though the Indian tries to explain the oversight. But the collector is relentless in his abuse. Later, Roy writes in his petition to Lord Minto,

Your petitioner throwing himself, his character and the honour of his family on the impartial justice, liberality and feeling of your Lordship, entertaining the most confident expectation that your Lordship will be pleased to afford to your petitioner every just degree of satisfaction for the injury which his character has sustained from the hasty and indecorous conduct of Sir Fredrick Hamilton, by taking such notice of that conduct, as it may appear to your Lordship to merit.²

In not genuflecting to the Englishman, albeit by mistake, and then not tolerating abuse, Roy seems to be reiterating his inherent respect for the fact that 'over his own body... the individual is supreme'. The letter, from a native to an Englishman, in the Queen's language, was path-breaking for its time – not least because Hamilton was chastised by Lord Minto himself, and 'cautioned against having similar altercations with any of the natives in future'.³

The liberty argument and individual autonomy is the bedrock of Roy's opposition to *sati*. His disagreement with *sati* was utterly Locke-ian. In his *Letters Concerning Toleration*, John Locke put forth the idea of religious toleration based on the premise that no judge on earth (or of the state) can really accurately evaluate which religion has the Truth, assuming that they could. Locke concluded that enforcing that Truth on all religions would cause mass violence, and forcing uniformity of religious beliefs would cause more friction than making space for diversity.

On *sati*, Roy says if the ancient treatise masters like Manu and Yagnavalkya talk about how a widow should live (performing austere duties, shunning all sensual pleasures) and who should take care of her (father, mother, son), then clearly the matter of self-immolation is a choice. There cannot be one view on the matter for the orthodoxy to coerce and enforce one rule. The debate on *sati* is also important because it is quite literally connected to the idea of the self, the ownership of a body. Who has the right to decide what would be the fate of the body of a woman? Who has the right to decide on her life?

While discussing Roy's contribution, it would be unfair to ignore that he stood on the shoulders of giants. A few Englishmen during the Bengal Renaissance provided the first fodder to the activism of the likes of Roy. Nathaniel Halhed, an Oxford man, translated the Hindu code of laws from Persian to English to give 'a precise idea of these people which, to their great injury, have long been misrepresented in the Western world'.⁴ Others like David Hare, Henry Colebrooke, William Carey, Henry Derozio, J. E. D. Bethune, Annette Ackroyd and Mary Carpenter did two critical things – one, they explained to the West a nuanced understanding of India and its ancient philosophical, theological and scientific greatness, and two, rekindled among educated Indians, who had often studied in institutions started by such Englishmen and women or worked with them in various positions, a pride in the greatness of their own civilisational values.

It was the Englishman Charles Wilkins who, in his translation of the *Bhagvad Gita*, pointed out that 'the most learned Brahmans of the present time' believed in one Supreme Being (or were Unitarians), the Brahman,

‘in accordance with (Lord) Krishna’s teachings’. He also pointed out that rituals of the Hindus were often no different from those of old Christianity. Sir William Jones, another Oxford man who was fluent in 28 languages, went on to become the first president of the Asiatic Society and start the branch of Orientalism called Indology. Among Jones’s great works was the translation to English of *Shakuntala*, the masterpiece of the great Indian poet Kalidasa. What this translation achieved is a powerful example of the contribution of Orientalists like Jones. It triggered a translation of the epic poem into German, which would have never happened had it not been available in the English language first. When the writer Wolfgang von Goethe read it, he gushed, ‘the soul is charmed, enraptured, feasted, fed’. If it was Jones who dreamt up and brought to life the still surviving Asiatic Society, it was his intellectual heir Henry Colebrooke who poured over the texts of mathematician Bhaskara (1114-85) and the astronomer Brahmagupta (598-670) to conclude that the Indian knowledge of algebra and arithmetic came before the explorations of the subjects by the Arabs. By researching an even older astronomer Aryabhata (476-550), Colebrooke concluded that Hindu algebra was more refined than Hellenic math. But Colebrooke had an even greater contribution to liberal thought in India wherein his writings pointed to Indian scriptural references that proved that there was no religious requirement for *sati*.

Whether it is the Brahmo thought which sought to take Hinduism back to core ideas of a formless advaita understanding of God free from archaic rituals, or the struggle against orthodoxy in the form of *sati*, some of the first contexts of modern liberal thought appeared in India through the British. They not only brought English liberal philosophies to India but also helped Indians rediscover the liberalism in their own heritage.

Roy’s process of using socio-religious philosophy to make progressive arguments for the cause of liberty and freedom was taken up by a man whose name is rarely ever mentioned while discussing the history of liberal thought in India – Vivekananda. His contribution to bringing forth liberal thought and values into mainstream discourse, particularly

against orthodoxy and bigotry, is difficult to ignore.

Speaking in England, the home of Darwin, in the 1800s when there were still many sceptics of the scientist's theories, especially in the world of religion, a barely 30-year-old Hindu monk said,

Is religion to justify itself by the discoveries of reason, through which every other science justifies itself? Are the same methods of investigation, which we apply to sciences and knowledge outside, to be applied to the science of religion? In my opinion this must be so, and I am also of the opinion that the sooner it is done the better. If a religion is destroyed by such investigations, it was then all the time useless, unworthy superstitions, and the sooner it goes the better. I am thoroughly convinced that its destruction would be the best thing that could happen. All that is dross will be taken off, no doubt, but the essential parts of religion will emerge triumphant out of this investigation.⁵

Vivekananda's interventions, I believe, gave impetus to a struggle against religious orthodoxy upon which some of India's core liberal principles of constitutional pluralism are based. At the World Parliament of Religions in Chicago on September 11, 1893, he said, 'I am proud to belong to a religion which has taught the world both tolerance and universal acceptance. We believe not only in universal toleration, but we accept all religions as true.'⁶ He believed, 'as regards spirituality, the Americans are far inferior to us, but their society is far superior to ours. We will teach them our spirituality and assimilate what is best in their society.'⁷

Echoes of this came on December 6, 1948, in a constituent assembly debate on the inclusion of the right to propagate religion in the newly independent country. There was a fear that such a right would mean that the proselytizing religions would be 'paving the way for the complete annihilation of Hindu culture'.⁸ Vivekananda himself had chastised hard line Christian missionaries in his talks in America when he said, 'You Christians, who are so fond of sending out missionaries to save the soul of the heathen, why do you not try to save their bodies from

starvation?’⁹ But this is also the monk who said, ‘You will be nearer to heaven through football than through the study of the Gita’,¹⁰ the man who warned Hindus that by endless empty rituals of what can and cannot be touched, by dragging their religion constantly ‘in the kitchen’,¹¹ they were becoming ‘don’t-touchists’.¹² Vivekananda’s inherent openness could be used to make a point for liberal values in the debate.

Arguing for the right to propagate religion, Lakshmi Kanta Maitra said in the constituent assembly,

The great Swami Vivekananda used to say that India is respected and revered all over the world because of her rich spiritual heritage. The Western world, strong with all the strength of a materialistic civilisation, rich with the acquisitions of science, having a dominating position in the world, is poor today because of its utter lack of spiritual treasure. And here does India step in. India has to import this rich spiritual treasure, this message of hers to the West. If we are to do that, if we are to educate the world, if we are to remove the doubts and misconceptions, and the colossal ignorance that prevails in the world about India’s culture and heritage, this right must be inherent – the right to profess and propagate her religious faith must be conceded.¹³

Thus, Vivekananda’s name gets forever enmeshed in multicultural India choosing the right to propagate faith as a fundamental right.

Further, Dadabhai Naoroji, the first Indian to become a Member of Parliament in Britain (elected in 1892 from Finsbury Central as a Liberal Party candidate), refused to take oath with his hand on the Bible since he was not a Christian, and insisted on swearing by the Avesta. Naoroji made an argument for economic liberty of India in his writings where he reflected on the gargantuan drain of India’s wealth to Britain, and commented that whatever credit that could be given to the British for introducing technologies like the railways in India were insignificant compared to the drain of Indian wealth and resources through corrupt British policy. Dadabhai Naoroji used the ideas of John Stuart Mill to argue that it isn’t overpopulation but lack of capital that plagued India’s

prosperity. He wrote, 'When persons talk of the operation of economic laws they forget the very first and fundamental principle. Says Mr. Mill, "Industry is limited by capital." "To employ industry on the land is to apply capital to the land." "Industry cannot be employed to any greater extent than there is capital to invest".'¹⁴ And if that capital was being siphoned away to Britain, then how could India grow?

The 'Renaissance Man',¹⁵ Rabindranath Tagore, is another critical figure to discuss while studying liberal thought in India. In the midst of the greatest upheaval of nationalism in his country, Tagore dared to be an internationalist, oppose Gandhian nationalism, and speak for the 'spirit of the New Age', arguing that, 'from now on, the anxiety that each country has for its own safety must embrace the welfare of the world.'¹⁶ Rejecting Mahatma Gandhi's call for non-cooperation and *swadeshi*, Tagore, who returned his knighthood protesting the Jallianwala Bagh massacre, wrote, 'let us be rid of all false pride and rejoice at any lamp being lit at any corner of the world, knowing that it is part of the common illumination of our home.'¹⁷

In fact, in both Gandhi and Mahadev Govind Ranade, we see the sometimes awkward balance between seeking liberal reform in society and grappling with it at home. Gandhi, the tireless champion against untouchability and women's empowerment, had a fraught relationship with his wife and children, and had an ambivalent journey dealing with caste. On the other hand, Ranade, the vigorous campaigner on widow remarriage, chose to marry a child bride rather than a widow in deference to his family's wishes after the death of his first wife.

In a sense, Gandhi's political mentor, Gopal Krishna Gokhale, focusing on education, was a straight forward progressive in his support for raising the age of marriage to curb child marriages, a major bone of contention between him and his life-long *bête noire*, Bal Gangadhar Tilak, who argued that such societal reform cannot be pushed through by a colonial power. He was also significantly influenced by John Stuart Mill and Edmund Burke. It was evident in his views on economics. He commented, '...excise duties demonstrate what John Stuart Mill has said

about the government of the people of one country by the people of another. They were levied not for revenue purposes but as a concession to the selfish agitation of Manchester.’¹⁸

The momentum of liberal thought movement in India was halted by the rise of Jawaharlal Nehru and Subhash Chandra Bose. Despite being political rivals, both committed to forms of socialism under the mentorship of Gandhi. This is particularly true in economics. As Ashis Nandy has argued, Gandhi rejected ‘tech-nicism, not technology’¹⁹, that is, ‘an instrumentalist understanding and use of technology whose telos is necessarily self-serving’.²⁰ More importantly, Gandhi never shunned capitalism, indeed his ideas about the market, especially his theory of trusteeship, as the writer Rajni Bakshi has argued, comes very close to modern ideas of sustainable business.²¹ Now there is no doubt that after independence, Indian capitalists wanted the government to take a leading role in the economy which needed large scale infrastructure investment. But the formal adoption of socialism as a goal by the Congress Party under Jawaharlal Nehru began a downward spiral for the Indian economy which it did not recover from till 1991.

The move to declare India a socialist state met with stiff resistance. During the Constituent Assembly debate held on November 15, 1948, Babasaheb Ambedkar had opposed the inclusion of the term ‘socialist’ in the Preamble of the Constitution of India. He argued against adding the term ‘socialist’ saying,

What should be the policy of the state, how the society should be in its social and economic side are matters which must be decided by the people themselves according to time and circumstances. It cannot be laid down in the Constitution itself, because that is destroying democracy altogether.²²

Shyama Prasad Mookerjee, the Minister of Commerce and Industry in Nehru’s cabinet, had been instrumental in excluding trade, commerce, and the production and distribution of goods from the purview of the executive.²³ However, he was soon more worried about Kashmir than

the economy. In 1953, he mysteriously died in the valley. Sardar Patel, Nehru's only true rival after Subhash Chandra Bose, and a man who had warned, 'A government which engages itself in trading activities will come to grief' had died in 1950. In 1954, pushed by Nehru, the Indian Parliament accepted 'socialist pattern of society' as the aim of economic development, and in the crucial Avadi session of the Indian National Congress, a resolution was passed calling for the 'establishment of a socialistic pattern of society where the principal means of production are under social ownership or control' and there is 'equitable distribution of the national wealth'.²⁴ India (and Nehru) seemed to have started out in 1947 with the idea that the country would have a mixed economy but by 1956 such liberalism had been thrown out of the window and allowed 'only the government to undertake new ventures in several sectors such as textiles, automobiles, and defence.'²⁵

From this point on in Indian history, there is only one more real liberal challenge till the breakout point of 1991. This comes from a party called the *Swatantra* Party started by the scholar and *Bharat Ratna* Chakravarti Rajagopalachari in June 1959. The 21-point manifesto that led to the creation of the *Swatantra* Party is one of the clearest and most significant assertions of liberalism in Indian political thought. In the Statement of Principles of the *Swatantra* Party adopted in August 1959, the second and the third points read,

The Party holds that progress, welfare, and happiness of the people depend on individual initiative, enterprise, and energy. The Party stands for the principle of maximum freedom for the individual and minimum interference by the State, consistent with the obligation to prevent and punish anti-social activities, to protect the weaker elements of society, and to create the conditions in which individual initiative will thrive and be fruitful. The Party is, therefore opposed to increasing State interference of the kind now being pursued.

The Party holds that the State should foster and utilize the sense of moral obligation, the pride, satisfaction, and fulfilment felt by individuals in serving others, which are inherent in our tradition,

instead of adopting legislative or other forms of compulsion which commence with want of faith in the people and are consummated in the serfdom of the governed under the official machine, in an omnipotent State controlled by a political party voted to power. The Party, therefore, adheres to the principle of Trusteeship adumbrated by Gandhiji.

It is not a coincidence that India's only liberal party looked up to Gandhi's theory of trusteeship but in spite of this early focus on sustainable enterprise, the *Swatantra* Party could never really push through the agenda of liberalism and free enterprise as the mood sunk deeper from socialism into crony socialism from Nehru to his daughter Indira Gandhi. The term 'socialist' was included in the Preamble by the Indira Gandhi government through the 42nd Constitutional Amendment Act, 1976 during the Emergency period. She also, at the same time, introduced the word 'secular', which many have argued has led to more abuse of the real principles of secularism than promote real pluralism.

For all the hopelessness and political failure that the history of liberalism suggests in India, since 1991, if India's stuttering process of opening its markets and aspirations has one lesson, it is that the individual is more important than ever before in this raucous land so devoted to the idea of the collective.

NOTES AND REFERENCES

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Why India Needs a New Constitution

ATANU DEY

The factors that affect and determine the prosperity or poverty of nations are many. Some of them are necessary although none of them individually or severally are sufficient.¹ The heterogeneity of people in various nations, the diverse geographical and environmental conditions, the different historical routes followed, the diversity of cultural practices, the technology available to them, and the nature of competition for resources, all differ in space and time for individual nations. This partly explains why it is so difficult to arrive at some formula for the economic growth and development of any particular nation.

There are Always Rules

There are a few facts that are incontestable. First, some nations are rich while others poor. Second, some poor nations have been able to escape the poverty trap even though others in almost identical situations have failed to do so. The primary question is: is there a basic necessary condition that contributes to prosperity? This essay attempts to state that necessary condition. The claim in the following is that the set of rules that govern the nation determine its fate necessarily (although not sufficiently).

An economy essentially is a collection of interacting human beings. For any group of two or more people, this collective interaction requires rules. These rules could have evolved naturally, in which case they are part of the culture, or they could have been codified through some formal procedure,

which itself could have been arrived at organically or by borrowing from others. In all cases, however, there always are rules.

Rules are Powerful

Rules fundamentally determine the nature and outcome of the interactions that go to determine the game. An economy is a very large, multi-generational complicated game played by a very large number of people. It is easy to see that rules determine the game.

A board game like chess differs from checkers or draughts because the rules are different. It is not the shape of the pieces that make them different games. The same pieces under different rules define a different game. Similarly, the same set of players following different rules could play a game of soccer or a game of cricket. Rules define all games, including the great games of politics and economics.

All political entities are defined and distinguished by the rules. Two entities following different set of rules have different outcomes. Natural historical experiments across the world point to the truth of this proposition. Following WW II, East and West Germany's fortunes diverged. The people in the two nations had similar endowments—history, culture, material and social. They followed different sets of rules. The outcomes were markedly different. The same story can be told for North and South Korea, and many other parts of the world. Another example relates to the US and Argentina.

A short century ago the US and Argentina were rivals. Both were riding the first wave of globalisation at the turn of the 20th century. Both were young, dynamic nations with fertile farmlands and confident exporters. Both brought the beef of the New World to the tables of their European colonial forebears. Before the Great Depression of the 1930s, Argentina was among the 10 richest economies in the world...

A hundred years later there was no choice at all. One had gone on to be among the most successful economies ever. The other was a broken husk.

There was no individual event at which Argentina's path was set on a permanent divergence from that of the United States of America. But there was a series of mistakes and missteps that fit a general pattern. The countries were dealt quite similar hands but played them very differently. The similarities between the two in the second half of the 19th century, and in fact up to 1939, were neither fictional nor superficial.²

The different outcomes of the two countries depended on a variety of factors, no doubt, but the one single factor that necessarily differed was in the different rule sets the two countries followed.

Rules Determine Trajectories

The trajectory that an economy takes is dictated by the rules. If the trajectory has to change, the rules have to change. If the rules don't change, the trajectory does not change. This fact simply explains the persistence of prosperity or poverty of nations. Generally, the rules persist and therefore the trajectory persists.

People make the rules. But in a bit of circular causation, rules make the people. Of course, it is only the "leaders" of the group make the rules. But the rules themselves determine who the leaders are. Rules provide the constraints within which the rules are made and by whom. Rules choose leaders and leaders choose rules (although this is not simultaneous.)

The Persistence of Policies

Consider a familiar example: the US. Every so often the leadership of their government and that of the state governments change. Power alternates between the Democrats and the Republicans. The two parties' policies differ but only within narrowly defined limits. And from a far enough remove, they are indistinguishable. There's a continuity and commonality of purpose regardless of which party is in power. There is always talk of change but nothing essential changes. For example, take the present administration: it is just an extension of the Bush administration—which

was itself an extension of the Clinton admin, which was an extension of the Bush Sr. policies...

Policies persist in rich and poor countries alike. Consider the case of India. The British raj ended in 1947 and the Indian raj took over. The people were ruled by the British government until August 15, 1947 and then the people were ruled³ by the Indian government, essentially under the same rules. The rules did not change and therefore the trajectory that the country was on did not change either.

Going back to the US: in 1776, the 13 British colonial states in America declared their independence and formed the United States. The most important change that they made was that they changed the rules. Under the old rules, the people were subjects of the British crown; the new rules made them a republic in which the people were the principals and the government was their agent. The new rules - the Constitution of the United States of America⁴ - reversed the relationship between the people and the government. That set the US on a different trajectory.

Coming back to India: like in the US, in India too political power is held by different political parties and by different people (even within the same political party) at different times. The policies, however, are broadly consistent across time and political affiliation. India's persistent economic trajectory can be explained by the persistence of the rules of the game.

The big lesson in this is for there to be change, the rules of the game have to change. Of course, there's the problem of how change can happen if there is a circular causation in play: the rules are changed by leaders who themselves have been selected through the rules and therefore have little incentive to change the rules.

Constitution

In any sufficiently complex system, rules exist in hierarchical structures. The top level has axiomatic rules that are generally collected in the constitution of the state. The constitution is a set of rules on how to

make rules, and to determine which rules will be allowed and which disallowed. The broadest set of rules are defined in the constitution and all other rules are elaborations of those broad rules. The granularity of the rules increases as the levels increase and therefore the derived rules are more specific and detailed.

For example, a constitutional rule may say that “All people are to be treated equal before the law.” A lower level rule that says “Only males can hold the office of the registrar of an university” will be disallowed because it conflicts with the rule about equality before the law.⁵

This hierarchy of rules is important for practical reasons. First, it is easy for a citizen to understand the small set of top-level rules. One does not have to a law degree to understand the broad rules. Second, it makes it possible for the lower level rules to be more targeted to specific situations. It is not possible to anticipate the details of any specific situation. The ability to flexibly create new rules to deal with the specific lies in the lower levels.

These lower - level rules have to be consistent with the higher-level rules but they can be changed as circumstances arise. Citizens don't have to know all the lower level rules. All they should be assured of is that no rule is being made that conflicts with the constitutional rules. Because of its hierarchical branching structure of the total set of rules, it is generally not possible for the average citizen to know all the detailed rules. To know the detailed rules one has to specialise in it—that is, study law.

The essential points here are that (1) if the constitution is comprehensible by the citizen, and (2) if all other rules are consistent with the constitution, then even without detailed knowledge of the entire set of rules, the citizen is assured that his agreeing with the constitution translates into an agreement of the more detailed rules or laws.

Consistency and Completeness

The basic set of rules encoded in the constitution have to be consistent. That is the first requirement. Any constitution that has to be in effect for

decades cannot aim to be complete because people do not have perfect foresight. The attempt to make a constitution complete by specifying to the tiniest details what's to be done in every contingency is going to lead to inconsistency and even worse, it could invalidate its universality.

To keep up with changing circumstances, if the constitution is too detailed, it will have to be amended frequently. Another problem is that citizens cannot even hope to comprehend the constitution if it is too detailed.

The Constitution is Really Important

For the United States, the most important document ever written has to be the Constitution of the United States.⁶ The head of the executive branch of the US government is the President of the US. The oath of the president is

I do solemnly swear (or affirm) that I will faithfully execute the Office of President of the United States, and will to the best of my ability, preserve, protect and defend the Constitution of the United States.

Note, *not* “defend the country” or “preserve the country” or “protect the citizens” but defend the *Constitution*, protect the *Constitution*, preserve the *Constitution*. This is so because the Constitution is supreme and all other things such as the preservation of the country and all its citizens necessarily flow from it.⁷ The prosperity of the US flow from its constitution more than any other reason.

In India too, a similar oath⁸ is taken by the Prime Minister of India, the head of the government.

I, <name>, do swear in the name of God/solemnly affirm that I will bear true faith and allegiance to the Constitution of India as by law established, that I will uphold the sovereignty and integrity of India, that I will faithfully and conscientiously discharge my duties as prime

minister for the Union and that I will do right to all manner of people in accordance with the Constitution and the law, without fear or favour, affection or ill-will.⁹

The Constitution is what defines the state or the nation. It determines what it is and what it is going to be. A country's fortunes depend on how good its constitution is.

I am not a constitutional scholar. As a matter of fact, one should not have to be a constitutional scholar to be able to understand the constitution. If the constitution is too complex, too long, too incomprehensible for an average educated, literate citizen, there is a problem with it. Frequent amendments—justified or not—also point to inherent flaws.

In any civilised society with a democratic government, there exists an implied (explicit or implicit) contract between the people and the government they create for the specific purpose of the citizens living in harmony with each other. That contract is encoded in the constitution. The constitution is the DNA of the organism which is the nation or the economy.

There is a simple test that anyone can apply to figure out whether a constitution is good or not: if the nation is enjoying the prosperity that is consistent with its endowments and circumstances, then the constitution is good. That is, the goodness of the constitution is a necessary condition.¹⁰ All other things being equal, if the constitution is bad, the country will be poor. If the constitution is good, it allows the possibility of prosperity.

Comparing the US and Indian Constitutions

Fact is that India is in deep distress today. It has always been in deep distress for decades, certainly for the entire of the twentieth century, the first half of it under British Rule and then under 'self-governance' (which can be designated British Raj 2.0.) That fact alone argues for the claim that perhaps the Indian constitution is not good.

A bad constitution does not admit a good society although it is possible that a society could fail even though it has a good constitution. My main contention here is that for India to progress, it has to have a good constitution. How that could be achieved is a problem we have to acknowledge and then solve. Doing this a necessary step if India has to progress.

Over the years, I have asked around 10,000 Indians what they think of the Constitution of India. All of them were literate and fairly well educated by conventional standards. No one admitted to having read the constitution in its entirety. A few people have claimed that they read parts of it and that too to meet requirements as part of their formal education such as a law degree. In short, to a first approximation, no one has ever read the Indian constitution. By a first approximation, I mean that if in a population of say 3 billion people (the number of people who have lived and died since the constitution was adopted), about 10,000 people have ever read the constitution, it means that such a vanishingly small percentage have ever read it that it is zero for all practical purposes.

When asked what they know about the Constitution of India, many say that it is the longest written constitution in the world, as if it were some mark of high distinction. That is precisely the wrong thing to be proud of. The constitution should be brief and comprehensible to the average literate citizen.

Complexity

I am not in favour of complexity—neither in writing nor in the design of systems. It does not help in comprehension and is a definite hindrance to good design and effective maintenance. Things should be kept as simple as possible. James Madison made this point succinctly in *The Federalist Papers* where he elegantly summarised the reasons a Constitution should be brief and to the point.¹¹

It will be of little avail to the people that the laws are made by men of their own choice if the laws be so voluminous that they cannot

be read, or so incoherent that they cannot be understood; if they be repealed or revised before they are promulgated, or undergo such incessant changes that no man, who knows what the law is today, can guess what it will be tomorrow. Law is defined to be a rule of action; but how can that be a rule, which is little known and less fixed?¹²

The Constitution of the United States was signed in September 1787. The Constitution came into effect in March 1789. It was four handwritten pages. The full text of the Constitution is around 4,300 words. It has seven articles.¹³

The Indian Constitution was adopted on January 26, 1950. It is over 500 pages long. Compared to the US's seven articles, the Indian Constitution has 444 articles in 22 parts, 12 schedules and 118 amendments.

Amendments to the Constitution

The US Constitution has been amended 27 times in its 225 years. The first 10 amendments were adopted in one go on December 15, 1791. These collectively came to be known as the 'Bill of Rights' that protects citizens from the power of the federal government. Thus, aside from the Bill of Rights, there have been only 17 amendments to the US Constitution. Of these 17 amendments, two relate to prohibition of alcohol: one that prohibits it (the 18th Amendment) and one that repeals that prohibition (the 21st Amendment.) Therefore, one can say that there are 15 amendments that persist. That is, one amendment every 15 years.

The Indian Constitution has had 118 amendments during its life of 63 years thus far. That is a rate of roughly one amendment every six months, or 30 times the rate at which the US Constitution has been amended. That should give us pause to ponder what exactly is the matter with it.

In addition, most of the Indian constitution is written in legalese. It was probably composed by people who have had a lifetime of

legal practise and it probably never occurred to those authors that perhaps the document should be such that the average person could understand it.

The Ruled and the Ruler

Could it be that differences in the structure and form of the constitutions of the US and India point to a fundamental difference in the objective of the document? I claim that it does. The US Constitution is a document which establishes the people as the ruler and the government as its agent. It prescribes what the government is allowed to do and prohibits the government from infringing on the rights of the people (which are enumerated in the Bill of Rights.)

The Indian Constitution, in contrast, establishes the government as the ruler and the citizens as the ruled. It limits the rights of the citizens and gives enormous powers to the government. This difference in the basic power balance between the people and the government can be explained by examining the history of the two countries.

The US fought a war of independence and won their freedom from the British. Following that, the leaders of the newly formed state (1776) decided that they want a new form of government and to that end, they wrote an entirely new set of rules. They started almost from scratch. With the new set of rules that they themselves—Americans not Britishers—they set upon a new direction.

The Indian Constitution is a collection of rules and regulations that the British had crafted as the colonial rulers of India. The Government of India Act of 1935, crafted by the British, is largely incorporated in the Indian Constitution.¹⁴ There were some changes but essentially the same set of rules continued to be in effect after 1947 as before. The rules that the British had created naturally placed the government over the people, and the same relationship continued after 1947. The same old set of rules, and the same old direction, the same old dismal outcome.

The Rumours About the Emperor's New Clothes

That familiar fable of the emperor's new clothes goes that one kid blurts out that the emperor is naked and that he is not actually wearing any clothes at all. The rest of the people continue believing, quite contrary to the evidence of their own eyes, that the clothes are indeed fine, as that's what all the emperor's courtiers say. Who are they to contradict the more-worthy observers, they tell themselves.

In the case of India, the persistent belief by Indians in general is that the constitution is a fine work. Not that they have examined it themselves but they rely on other more learned people and have to uncritically accept their verdict. It is like the fable but in this case the people have not themselves seen the emperor in his new clothes: they have only heard of reports that the emperor has a new set of clothes and experts who have seen the new clothes have declared them to be wonderful. So the people have this persistent belief and will definitely reject any claims to the contrary.

The Indian Constitution is Deeply Flawed

As I have mentioned before I am not a constitutional expert or even a lawyer. I cannot definitely claim that I have the proof that the Indian constitution is flawed. I can only go by the evidence of its effects on the Indian state and conjecture that India's distress can be ultimately traced to its constitution.

Let me reason analogically. I am not a nuclear power station engineer. But even without a degree in anything nuclear, if I see that a nuclear power station has failed spectacularly without it being bombed or intentionally destroyed, I can rightfully conjecture that design was flawed. From the evidence that conjecture is viable.

It could be claimed that the constitution is fine but its implementation is flawed. That is an untenable. Here's why. The implementation of any constitution is in the hands of the leaders of the country. If the

implementation is flawed, it means that the wrong leaders are in charge. But it is the constitution that ultimately dictates who the leaders are. Leaders are chosen according to some set of rules—and these rules are primarily derived from the constitution, as are all rules ultimately derived from the constitution.

So if a process selects the most venal, the most morally compromised, the most unprincipled of people as the leaders of the nation, then the primary document that outlines the process and gives it legitimacy must be flawed.

If the constitution does not respect the right to private property, and the government can appropriate any property as it desires, then the people in charge of the government have an irresistible temptation to take away private property for their own gains. This possibility itself introduces the horrors of adverse selection (the most greedy would seek political office) and moral hazard (the tendency to steal when given the opportunity.) India's politicians are venal because the constitution does not bar criminals and the criminally inclined from seeking and holding office.

Unlimited expansion of government power at the expense of the freedom of the people is made possible—even encouraged—by the nature of the constitution. A Constitution that protects the individual from unreasonable oppression by the government is a necessary condition for free people. India's lack of prosperity is because Indians are fundamentally not free.

Individual freedom is the basis for a free society. Free individuals interacting freely within society is absolutely indispensable for social well-being and economic prosperity. It is well understood that economic prosperity requires free markets. But free markets cannot be had without individual freedom. Free markets emerge from the interactions of free people.

All laws regardless of their theatre of operation—labour markets, education, civil matters, criminal matters—derive from the constitution. If the courts are not operating effectively, where does the problem lie? If there are 30 million cases pending in the Indian judicial system and cases take decades to be resolved, to what institution can one trace the failure?

Constitutions Matter

To reiterate, given all other things equal, the differences in the outcome of societies can be traced to differences in the set of rules they operate under. North Korea is different from South Korea because of differences in the rules. India is different from Pakistan for the same reason.

We keep hearing of revolutions around the world. Often times, though, the before and after images of those revolutions don't appear to be materially different. What we usually see is that one set of tyrannical rulers are replaced by another set. The reason that nothing changes is because the rules continue to be the same. Similarly, the US administrations change but the core policies do not change. The US continues to prosper (with minor hiccups) because at its foundation is a set of rules they follow that is good for the economy. India continues to fail and fall behind because the set of rules it has does not allow it to prosper.

When an Indian migrates from India to the US (like I did), the essential change lies in the new game that the migrant is part of. Same person, different rules, different outcomes.

Change the Rules, Change the Game

Nobel laureate economist, James Buchanan Jr, wrote,

It is folly to think that 'better men' elected to office will help us much, that 'better policy' will turn things around here. We need, and must have, basic constitutional reform, which must, of course, be preceded by basic constitutional discourse and discussion. This is our challenge.¹⁵

Individuals differ. All humans are not created equal. But sufficiently large groups of people are quite similar to other large groups of people. It is not true that Americans by nature are intrinsically better than Indians, at least not to the extent that Americans have a per capita income 40 times that of Indians. What is different between Americans (or Germans or Scandinavians) and Indians is that they operate under different rules.

The conclusion has to be that India's problem is structural and systemic, and not idiosyncratic. If the Constitution were to change, the ultimate rules of the game would change, the policies (the derived rules) will change, and consequently the action on the ground (the play of the game) will change, and therefore the outcome will change.

India needs a new Constitution that is consistent with a nation of free individuals living in a complex, modern, large economy. This modern Constitution has to be one that guarantees economic freedom to the individual, prohibits the government from making any laws that discriminate among citizens, guarantees freedom of speech and the press, prohibits the government from entering into businesses that are properly the domain of the private sector, and so on. In other words, India needs a constitution that protects the comprehensive freedom of the individual: economic, social and political.

Therefore, for India to change its trajectory, to move out of the trap that it is in for so long, the rules of the game have to change. The constitution of India has to be re-written.

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- ¹ The importance of the distinction between necessary and sufficient is underappreciated. Too often people tend to think that because something is not sufficient, it is not necessary. Free markets, for example, are not sufficient to guarantee prosperity because market failures are a reality. But that fact in itself does not invalidate the need to have free markets. Government intervention too is often necessary but that does not mean that government intervention is sufficient either. By themselves neither a free market nor government control is sufficient although both may be necessary depending on the specifics of a situation.
- ² Alan Beattie, "Argentina: The superpower that never was," *Financial Times* (May 23, 2009).
- ³ I note the distinction between 'rule' and 'administration'. The British government ruled. Now we have the Congress rule, the UPA rule, etc. Compare that to the "Nixon administration", the "Bush administration" etc.
- ⁴ The Constitution was adopted on September 17, 1787, by the Constitutional Convention in Philadelphia. It went into effect on March 4, 1789.
- ⁵ This happens all the time in the US. Laws are passed by the US Congress but they have to pass the constitutional test: Does the enacted law violate the constitution? As a consequence, sometime there is a vigorous public debate about the constitutionality of any laws passed by the state or the federal governments. This establishes in the minds of the people that it is a government of laws and that these laws are basically framed by the people. In essence, the citizens viscerally understand that their government is not of people but of laws. People come and go but the laws persist.
- ⁶ The other important document must be the Declaration of Independence written in 1776.
- ⁷ In a monarchy, the king is supreme and therefore they have 'God Save the King'. In a constitutional republic, the constitution is the king. We need to note that a monarch is omnipotent and sovereign. The constitution is sovereign but not omnipotent. The people have rights that even the constitution cannot take away.
- ⁸ It is similar but wordy. Economy of words is not something that is valued by Indians in general. Even trivial announcements or public notices are wordy. People seem to confuse the length of a pronouncement with how important it is.
- ⁹ That oath has a redundant clause in it. In my view, defending of the constitution of India is tantamount to upholding the 'sovereignty and integrity of India'. Furthermore, the duty and office of the PM is defined by the constitution. Therefore,

declaring that “I will faithfully and conscientiously discharge my duties . . . in accordance with the Constitution and the law” is redundant and superfluous.

- ¹⁰ But a good constitution is not a sufficient condition for prosperity. You could have a good constitution and yet be rendered poor by adverse circumstances.
- ¹¹ James Madison, Jr. (1751 - 1836) was an American statesman and political theorist, the fourth President of the United States (1809–1817). He is hailed as the “Father of the Constitution” for being instrumental in the drafting of the United States Constitution and as the key champion and author of the United States Bill of Rights. After the constitution had been drafted, Madison became one of the leaders in the movement to ratify it. His collaboration with Alexander Hamilton and John Jay produced the Federalist Papers (1788). Circulated only in New York at the time, they would later be considered among the most important polemics in support of the Constitution. Source: Wikipedia
- ¹² James Madison. The Federalist Papers. No.62. 381. New York, 1788.
- ¹³ The first three Articles embody the doctrine of the separation of powers, whereby the federal government is divided into three branches: the legislature, consisting of the bicameral Congress; the executive, consisting of the President; and the judiciary, consisting of the Supreme Court and other federal courts. The fourth and sixth Articles frame the doctrine of federalism, describing the relationship between State and State, and between the several States and the federal government. The fifth Article provides the procedure for amending the Constitution. The seventh Article provides the procedure for ratifying the Constitution.
- ¹⁴ The Cabinet Mission of 1946 was sent to India to hold preparatory discussions with elected representatives of British India and the Indian states about the method of framing of the Constitution, to set up a Constitution body and set up an executive council for the purpose. The mission consisted of Lord Pethick-Lawrence, the Secretary of State for India, Sir Stafford Cripps, President of the Board of Trade, and A. V. Alexander, the First Lord of the Admiralty. However, Lord Wavell, the Viceroy of India, did not participate. They held talks with the Indian National Congress and All-India Muslim League, which were the two largest political parties in the Constituent Assembly of India. The Constituent Assembly first met and began work on November 26, 1946. Hence, British involvement in framing of the Indian Constitution was central.
- ¹⁵ Notes on the History and Direction of Public Choice. From the book What Should Economists Do? Liberty Press, 1979.

Gandhiji's *Dharma* vs Nehruji's *Vikas*

LAVEESH BHANDARI

It is but natural for economic liberals such as this author to look at India's past for inspiration. This author was asked by the CCS to pen a chapter that would "examine the two contrasting visions [of Gandhi and Nehru] and ... capture the liberal elements in Gandhi's thought."

What appeared to be a fairly straightforward request however turned out to be far more complex than I had initially imagined. Contrasting the views of Gandhiji and Nehruji requires moving back and forth between different dimensions, a difficult task by itself. But there is a more serious problem. Gandhiji really does not care about economics or even political economy. His views on economics or society stem from a great conviction in the importance of the self and its *dharma*, and not from the relative importance of the state or individual, or the government or the market. For him, getting the self 'right' was by the far the main goal for it would result in getting the means right. Nehruji's views on the role of the government were more immediate, more rooted in achieving the ends. And so were those of the other leaders of the independence movement, be they Netaji, Maulana Azad, Sardar Patel or Rajaji. And many times I felt I should revert to the CCS with a paper contrasting the views of these important leaders for that would be easier and quicker to put together. But the glamour of foolhardiness decided the matter.

This essay is divided into four parts. The first gives an overview of Gandhian and Nehruvian ideals. The next delves briefly into Gandhiji's thoughts,

followed by Nehruji's orientation towards a socialist path. The fourth and concluding section reiterates the key insights.

My lens initially derived from the conventional political economy discourse on state/government versus markets. But Gandhiji moves seamlessly between his vision of the responsible individual, the society, and the state. Often, it is impossible to ascertain whether he is referring to the state or the society. Depending on where you come from, you can easily interpret it to your ends. And indeed, I do think that Lohia, Patwardhan and their ilk did precisely that, and ended up with that strange entity called Gandhian socialism. I do fear that Indian economic liberals may end up disco-venting something like Gandhian neo-liberalism!

I find that the nation's founders' notion of India derived from a strong idea of their responsibility, and of building a society devoid of social ills. In that, I would place them all on the same pedestal. Gandhiji of course veered almost insanely towards cleaning the self as a means of cleansing society. For him, it was every individual's *dharma* to be 'pure' and a society that had *abhinna* in its very DNA would naturally be a great society. In this sense, Gandhiji's view was more oriented towards the ethics of the self, and is more comparable to that of Aurobindo and Tagore, and, perhaps to a lesser extent, to Vivekananda. Gandhiji, evidently, was not enamored by the state or the government. He wanted it to be involved in the day to day affairs of men and women in a minimalist manner. But he definitely did not want unfettered markets to replace the state either. For him, 'self-rule is home rule', that is, minds disciplined in *dharma* would achieve and sustain the Indian nation's independence. The term *swatantra* (used these days for 'independent') means precisely that, 'the order/system/discipline of the self', and was synonymous with independence because of this characteristic.

Neither was Nehruji solely responsible for India's journey into Fabian socialism nor was Gandhiji anywhere close to being an economic liberal in the manner economic liberalism is defined. However, it is evident that the latter's success came from his ability to connect with the masses much better than any other leader before or after, and this connect was achieved

not from mimicking western intellectual fashions. He dipped deep into India's past and present, focused on the importance of community governance organizations such as *panchayats*, the non-violence inherent in *satyagraha*, *khadi*, and such like. These tended to be elements inherent in the Indian society and its unconscious helped him connect deeply with Indian people across classes, communities and geographies.¹

Gandhiji's *Dharma*

I do not draw a sharp line or make any distinction between economics and ethics.²

This section attempts to achieve two ends. First, it seeks to crisply define the source of Gandhiji's unique, often labeled as strange, ideas on India's future. Being short of space I will not attempt to crystallise in a few paras what could not be contained in a 100 volumes of Gandhiji's works. His thoughts on *swaraj*, *swadeshi*, *satyagraha*, trusteeship, importance of *jaatis*, and others were all outcomes of a thought process rooted in a different logic. However, understanding the seed from where the thought originates will allow us something more than the usual. Second, the section will show how well-meaning leaders and academics severely bastardised Gandhiji's vision when they attempted to cultivate Gandhian socialism. The lens of western economic thought, whether socialist or economic liberal, is not adequate to capture either the complexity or the richness of Gandhiji's *dharma*.

***Dharma* or Principles for the Self**

Modern dictionaries typically refer to many different meanings of the term *dharma*. I, however, argue that they see many facets in what is essentially a single concept but one that encompasses many dimensions. *Dharma* is not religion nor is it a duty imposed by society or the state. It is simply a set of principles that an individual attempts to act by with a sense of duty and this is what holds the world together. *Dharma*, therefore, is not about obligation to others and does not stem from a fear of god or higher powers. It is a responsibility to the self and to the world. Arguably, the

key element of Gandhiji's *dharma* was *ahinsa* or non-violence.

For Gandhiji, therefore, the notion of individual rights is the right to carry out one's *dharma*, which itself is a responsibility. In other words, rights and responsibilities exist together and neither can be considered in isolation to the other. This is an extremely important part of Gandhiji's views on political economy and his first and most defining work penned in 1908, *Hind Swaraj*, delves on the matter in great detail. It is quite evident to the reader that Gandhiji's fierce views on freedom are tempered with an even stronger ethic on individual responsibility.

Modern economic liberalism does not venture anywhere close to this singularity of an individual's rights and responsibilities.

***Abhi-bhavak* or Trustee**

Of the three main seeds that drive Gandhiji's views, the concept of trusteeship would perhaps be the most difficult for economic liberals to incorporate.

I adhere to my doctrine of trusteeship in spite of the ridicule that has been poured upon it. It is true that it is difficult to reach. So is non-violence. But we made up our minds in 1920 to negotiate that steep ascent. We have found it worth the effort.³

I am inviting those people who consider themselves as owners today to act as trustees, i.e., owners, not in their own right, but owners in the right of those whom they have exploited.⁴

Supposing I have come by a fair amount of wealth—either by way of legacy, or by means of trade and industry—I must know that all that wealth does not belong to me; what belongs to me is the right to an honorable livelihood, no better than that enjoyed by millions of others. The rest of my wealth belongs to the community and must be used for the welfare of the community.

I enunciated this theory when the socialist theory was placed before the country in respect to the possessions held by *zamindars* and ruling chiefs. They would do away with these privileged classes. [Whereas] I want them to outgrow their greed and sense of possession, and to come down in spite of their wealth to the level of those who earn their bread by labor. The laborer has to realize that the wealthy man is less owner of his wealth than the laborer is owner of his own, viz., the power to work.

The question how many can be real trustees according to this definition is beside the point. If the theory is true, it is immaterial whether many live up to it or only one man lives up to it. The question is of conviction. If you accept the principle of *ahinsa*, you have to strive to live up to it, no matter whether you succeed or fail. There is nothing in this theory which can be said to be beyond the grasp of intellect, though you may say (that) it is difficult of practice.⁵

Note that the practical leader in Gandhiji confesses that he does not believe this state will be easy to achieve, but that does not deter him from professing the primacy of his views over any other second best option. Much more important, for him, trusteeship comes about due to a moral compunction of the affluent, perhaps brought about via moral-suasion by society, on the use of wealth in the interest of the masses. This is different from the takeover of wealth that the Marxists were professing at the time. At the same time, it is not at all in sync with the notion of property ownership driving well-being.

***Ahinsa* or Non-Violence**

I hold that nonviolence is not merely a personal virtue. It is also a social virtue to be cultivated like the other virtues. Surely society is largely regulated by the expression of non-violence in its mutual dealings. What I ask for is an extension of it on a larger, national and international scale.⁶

All society is held together by non-violence, even as the earth is held in her position by gravitation... But I cannot say in advance what the government based on nonviolence will be like...⁷

The Government cannot succeed in becoming entirely nonviolent, because it represents all the people. I do not today conceive of such a golden age. But I do believe in the possibility of a predominantly nonviolent society. And I am working for it...⁸

There remains the question as to whether in an ideal society, there should be any or no government. I do not think we need worry ourselves about this at the moment. If we continue to work for such a society, it will slowly come into being to an extent...⁹

Note that the concept of a small or even a non-existent state is an ideal that is unlikely to be achieved. However, we must continuously strive towards it. This may appear to be a view which is parallel to that of economic liberals. However, it is apparent that that is not the case. The ideal can only be achieved with non-violence that resides in the heart of every individual and core of society. Therefore, Gandhiji's imagination of a small government resides within the ambit of non-violence, and not economic well-being. But how can non-violence determine resource allocation that is so necessary for production, distribution and consumption decisions? For Gandhiji, the moral man '...will use what he reasonably requires for his personal needs and will act as a trustee for the remainder to be used for the society...'¹⁰ Simply put, in his Utopia, economic decisions are being taken on ethical considerations. The non-violent path is feasible because each individual can be satisfied because he has limited desires. If a person obtains wealth or income beyond that, he would use it for the welfare of others. In that sense, in Gandhiji's world, more is not better, needs and wants are limited, and responsibility, trusteeship and non-violence drive and sustain such a world.

A Detour into Gandhian Socialism

Ram Manohar Lohia, and many of his colleagues in the Indian socialist

movement tried hard to embed Gandhiji's views into a socialist lattice. What emerged is Gandhian socialism which, as mentioned earlier, is a bastardised mutation of a deeply ethical and moral logic. Though Lohia, Patwardhan and their colleagues in the socialist movement of the day may have been great political leaders of the time, they are quite distinct from Gandhiji in that their instincts are for greater imposition of government controls.

Take, for example, the noted economist M.L. Dantwala, who attempted to convert the concept of trusteeship into one that could be implemented by the state.

Trusteeship provides a means of transforming the present capitalist order of society into an egalitarian one. It gives no quarter to capitalism, but gives the present owning class a chance of reforming itself. It is based on the faith that human nature is never beyond redemption. It does not recognise any right of private ownership of property except so far as it may be permitted by society for its own welfare. It does not exclude legislative regulation of the ownership and use of wealth. Thus under State-regulated trusteeship, an individual will not be free to hold or use his wealth for selfish satisfaction or in disregard of the interests of society. Just as it is proposed to fix a decent minimum living wage, even so a limit should be fixed for the maximum income that would be allowed to any person in society. The difference between such minimum and maximum incomes should be reasonable and equitable and variable from time to time so much so that the tendency would be towards obliteration of the difference. Under the Gandhian economic order the character of production will be determined by social necessity and not by personal whim or greed.¹¹

What we have here is a language of force by the state and society. Dantwala's Marxian and socialist instincts had snaked their way into the Gandhian vision of the *dharma* of the affluent. Obviously Dantwala's ideal is highly corrupted by his lack of appreciation of either *dharma*, *ahinsa* or, for that matter, trusteeship.

Role of the State

The above detour was simply to underscore the point that without ethical foundations it is easy for Gandhiji's views to degenerate into something contradictory to what he was attempting. Economic liberalism, the way it is currently propounded, takes ethics for granted; Gandhiji did not. For him, ethics were the core, the necessary condition behind his abhorrence of a strong state and its inherent violence.

If national life becomes so perfect as to become self-regulated, no representation becomes necessary. There is then a state of enlightened anarchy. In such a state everyone is his own ruler. He rules himself in such a manner that is never a hindrance to his neighbour. In the ideal state therefore, there is no political power because there is no State. But the ideal is never fully realized in life. Hence the classical statement of Thoreau that that Government is best which governs the least.¹²

That State is perfect and non-violent where the people are governed the least. The nearest approach to purest anarchy would be a democracy based on non-violence.¹³

In other words, while the ideal is something that we must constantly strive for, the less than ideal conditions of the world require as less a role of the state as possible. At the same time, this less than ideal condition requires a constant effort by society to work towards the ideal where self-regulation rules. In other words, while self-regulation is critical, the state that is required to fulfil the gaps should be as small as possible. But this is possible only when there is a constant and unending striving for improving the self to reach the ideal. Both economic liberal and socialist thoughts require a strong state. While the former requires the state to protect property, the latter requires the state to protect the equal distribution of income or wealth. The state is critical for both if their ideal is to be met. Gandhiji's ideal does not require a state at all, because he replaces self-discipline and ethics as the critical elements defining his world. Finally, it is possible to, perhaps simplistically, 'model' Gandhiji's worldview. Like a hydrogen

atom, there are essentially two elements to this model. At the core is a powerful sense of personal morality and around that revolves social order. Order is achieved from the core of ethics and *dharmā* which is that single, positively-charged power at the centre. It is this positive force of *dharmā* that keeps the negative of the state or society under control. If you take away the centre, everything collapses.

Nehruji's *Vikas*

Unlike Gandhiji's orientation, Nehruji's focus was more on directly addressing social change, with economic progress being a key stepping stone towards that outcome, and the state was its primary tool. It is well known that Nehruji had significant support within the Congress as far as his vision was concerned. In his socialist or left-of-centre ideals, he had a strong intellectual mate in Netaji Subhash Chandra Bose for company as became so apparent with the setting up of Forward Bloc. Maulana Azad is also referred to as having similar leanings as Nehruji. Annie Besant was herself an important proponent of Fabian ideals. The next generation of Congress leaders were not far behind. Ram Manohar Lohia and Jai Prakash Narayan were among many important left-of-centre leaders and pressure groups within the Congress. There may have been others, less well-known and less vocal. Socialism was the global economic flavor of the day since the 1920s-30s. While Eastern Europe was showing a surge in economic well-being, the works of thinkers such as George Bernard Shaw, Bertrand Russel or even Keynes would have added a strong dose of intellectual power to the idea of potential beneficent role that can be played by the state. Political leaders across the Commonwealth were taken in by this storm. Michel Aflaq, widely considered as the founder of the Ba'athist movement, was a Fabian. Salama Musa in Egypt, the pioneer of Arab socialism, was reportedly a member of the Fabian Society since 1909. Closer to home, M.A. Jinnah was a member of the Fabian Society. An interesting quote of Lee Kwan Yew neatly reflects conditions during the time,

They [Fabian Socialists] were going to create a just society for the British workers—the beginning of a welfare state, cheap council housing, free medicine and dental treatment, free spectacles, generous

unemployment benefits. Of course, for students from the colonies, like Singapore and Malaya, it was a great attraction as the alternative to communism. We did not see until the 1970s that that was the beginning of big problems contributing to the inevitable decline of the British economy.¹⁴

Nehruji did not bring socialism into India. He was simply following a global trend that perhaps was stronger in the British Commonwealth than in other parts of the world, but it was a global force nevertheless. Much of the Congress was already sold on to it, more so the intellectual leaders like Nehru, Azad and Bose. Moreover, this large scale conversion of Congress leadership was not a post-independence phenomenon when Nehruji had unbridled leadership. It had become quite strong from at least the 1930s, if not earlier. At the time of independence, support for the socialist path would have penetrated deep across the rank and file in the Congress. Nehruji's biggest attractiveness to the new India was his perceived modernity, and his ability to converse with global leaders on a one-on-one basis. His deep interest was in changing India by throwing away India's tattered past and putting on the new clothes of the west. What made him far more successful than others was his ability to tie in socialism with modernity. Decades after his death, socialism continues to be the dominant intellectual fashion in India, not because of its success in bringing in improvements in people's lives, but the well-entrenched belief that the state will be able to deliver them from their horrible past into a modern world.

But here as well, I would refrain from ascribing Nehruji's 'success' to motives. Given his western training—British schoolmasters in Allahabad, then at Harrow, followed by Cambridge and then at Inns of Court School of Law—there was little exposure to how India works in his formative years. He spent about eight years practicing law at the Allahabad High Court after his return from the UK but little is known about that period apart from a continuation of a western lifestyle. He then spent years in jail studying and writing about Indian history in later years but even his research was highly influenced by western authorities. Like many of his nationalistic peers, he also fell for the attractiveness of the intellectual fashion of the day.

In comparison, Sardar Patel, C. Rajagopalachari and Rajendra Prasad had all been exposed to India in much deeper ways. Each belonged to a small town or rural India, and had built a successful career on his own before entering the independence movement. The real world understanding that they brought in was a far superior bulwark against the socialist gale than intellectual arguments. However, they neither exuded modernity the way Nehruji did, nor enjoyed adequate intellectual support within the Congress.

The net result was something that is quite well known. Public sector emerged as the driving force behind expanding industrial production, licensing was used to limit and control private sector, trade and investment controls that naturally come with economic planning were put in place. These were only some of the tools imposed by the newly independent India under Nehruji's leadership. Consequently, there was low surplus in industry, a low tax base, destruction of economic inter-relationships of the past, and the general inability of the 'modern' economy to grow fast enough and replace what was steadily degenerating. There was a fall in exports in the post-war era, accompanied by a rise in imports, and an overall weakening of economic conditions. On top of that, there was poor progress in education, health, agriculture, irrigation, and such like. Fabian socialism was making India invest in areas where the country had little resource or human skill advantages. India did create a few islands of excellence, but precisely because they were few and not scalable they helped sustain the continued dominance of the elite.

As has been argued earlier in this essay, India's socialistic economic landscape would not have been significantly different in the absence of Nehruji. Belief in increased state action was then a global reality carrying everything with it but the insanely resolute. Gandhiji was, without doubt, a resolute figure not taken in by the fashion of the day. In other words, his instincts derived not so much from what he was reading or what was the intellectual fashion of the time but from his inherent dislike of use of force by the state. Others such as Sardar Patel, Rajaji and Prasad were also arguably less taken in by socialist ideals as they were more steeped in realities of India than western fashions.

Conclusion: *Dharma* and the Role of the State

To me political power is not an end but one of the means of enabling people to better their condition in every department of life.¹⁵

True economics stands for social justice; it promotes the good of all equally, including the weakest and is indispensable for decent life.¹⁶

In fact, India, when it begins to exploit other nations-as it must do if it becomes industrialized-will be a curse for other nations, a menace to the world. And why should I think of industrializing India to exploit other nations?¹⁷

Modern economic liberals may find both the father (Gandhiji) and the son (Nehruji) wanting vis-à-vis the ideology of economic liberalism. But the story of Gandhiji and Nehruji highlights a richer dialogue. The first has to do with the importance of personal morality and the creation of a social milieu that incessantly supports such behaviour. Today, it may be considered to be an impossible ask, but Gandhiji's vision was predominantly that. All other elements, *swadeshi*, *swaraj*, *khadi*, *panchayati raj*, enlightened anarchy, and such like, were rooted in this element. The second has to do with the ease with which a colonised society gives in to the intellectual fads that come about in the colonising country. The intellectual elite—and Nehruji is a poster-boy for this elite—was unable to see through the flaws of a fad that originated as a flawed response to alien problems in foreign societies.

While we can categorise the two leaders as either left or right-of-centre, this could not have been an important issue to either. There was a silent debate between the two. For Nehruji, India needed to be rebuilt as fast as possible, only then could the poorest and the least privileged expect to be free. Development or *vikaas* was considered far more important to make India free. He used whatever tools his western education exposed him to ensure a greater role of the state in production and planning. For Gandhiji, freedom came from within and, therefore, his inherent distrust of state action. He had different spiritual masters in religion

and *dharmā*, responsibility, and *abinsa* were his driving forces. There was no meeting point.

Are either of the two leaders relevant to twenty-first century India? I would argue in the affirmative. One was an independent thinker trying to evolve a radically different political economic logic, but one that was rooted in the society and economy of the country. The other was a persuasive leader who was quite successful in implementing what then was widely considered to be the best route for India. Each was partially successful. And each failed in what they set out to do.

Finally, where might India look for inspiration? Not only in the past, nor only outside India, but definitely within.

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- ⁷ Mahatma Gandhi, *Harijan*, 8. 11 December, 1939.
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Freedom and Digital India

NIRVIKAR SINGH

Digital technology is the basis of a fundamental transformation in societies and economies. The ability to store, process and communicate information at low cost and at a scale unprecedented in human history represents an opportunity for developing countries such as India to accelerate their push for material well-being, which, if successful, will bring their populations closer to developed-country standards of living. At the same time, it must be recognized that technology is not a substitute for ethical standards. It is well-recognized that digital technology poses challenges as well as providing opportunities. In particular, easy access to personal information provides the state with the means to increase surveillance and erode privacy and personal freedom. This essay explores some of these issues in the context of the current situation in India.¹

Economy

The benefits of digital technology are readily apparent in the case of economic activity. Low-cost information processing, storage and communication afford opportunities for more efficient operations of business firms, and even give smaller firms some counter-weight to traditional economies of scale. Thus, a small firm might be able to serve a large, geographically dispersed market using the Internet, without having to invest in large number of physical stores. New market intermediaries may compete with dominant existing ones, and increase the flow of information and the ability of consumers to compare supplier offerings.

On the other hand, there can be new sources of economies of scale, including network and reputational economies for suppliers as well

as certain kinds of intermediaries. It has been suggested that digital technology can, therefore, lead to an increasing dispersion of the size distribution of firms, favouring larger business firms, as well as smaller, more specialised ones.² The implications of these forces for consumer freedom and welfare are ambiguous, but one can easily apply familiar regulatory principles to these new contexts, particularly with respect to false advertising, misleading claims, and the like. There are fresh examples of possible information distortion in the case of digital technology, such as the pervasive use of consumer reviews, and the possibility of faking these, so there are certainly new regulatory challenges for specific actions, but traditional economic principles of competition and accurate disclosure continue to apply. There is certainly evidence that easier entry and greater information availability online can benefit consumers, as long as consumer protection is extended properly to Internet markets and transactions.³

In the Indian case, e-commerce is still in its infancy, but so is the conduct of consumer protection regulations and competition policy. Hence, there is an opportunity for policymakers to devise laws and regulations taking account of digital technology. One area that will need careful attention is the protection of consumer privacy. The scope for firms to gather information about individuals in their roles as potential consumers is vastly expanded with the use of digital technology. The contrast between the US and Europe is instructive in this respect: the former uses opt-out principles for information gathering by firms, whereas Europe enforces an opt-in framework, which is more protective of individual privacy.⁴ India has an opportunity to follow this more consumer-friendly approach, which is ultimately about freedom from intrusion of privacy.

The provision of public goods is primarily an economic issue, although government involvement introduces a political element. It is worth recognizing that public goods can be supplied by private providers, so the degree of government involvement can be a matter of choice. In India, however, the government has a strong tradition of complete control of the supply of public or quasi-public goods such as roads, sanitation, basic healthcare and primary education, as well as redistributive efforts involving transfers of cash, subsidies for certain goods, and job-creation schemes.

On the whole, it is widely acknowledged that in almost all these cases, governments in India do a poor job. Problems include poor targeting of transfers, theft of funds and materials, and non-delivery of public services.

Digital technology offers opportunities for improving the quality and effectiveness of delivery of public goods and services in India. Internally, it can enable government organizations to improve their functioning, including record-keeping, monitoring and evaluation across different departments and levels of government. Digital technology can also improve processes of procurement and monitoring of private firms when they are involved in achieving government policy goals. Most importantly, digital technology provides an opportunity for a vastly improved citizen-government interface, permitting individuals to gather information (especially when they are given the freedom to do so, as with India's Right to Information law), make requests, register complaints and obtain basic services such as registration and licenses, at much lower cost than would be possible otherwise.

Perhaps the only contentious area in the delivery of public goods and services is, once more, the issue of privacy. In India, the notoriously poor targeting of redistributive policies has been addressed through the introduction of national biometric identity cards (*Aadhaar*), which can ensure that benefits reach only those for whom they are intended. That goal is unobjectionable, but it comes at the cost of giving the government increased abilities to track and monitor its citizens. This is ultimately a deeper political issue, and is discussed in the next section.

More broadly, affecting the delivery and consumption of both private and public goods, aside from increases in efficiency that digital technology can enable, the issue of inequality is also important. If access to digital technology is unequal, then existing inequalities of resources and capabilities can be magnified. Hence, it is important for there to be low-cost access to digital technology and the services it enables. Here, the falling price of smart phones is an important positive development in the Indian case. To the extent that data services are still unaffordable for many people, providing some workaround (whether free basic services, or

targeted subsidies such as free data allowances, or public access points) to this affordability issue is desirable. Note that there can be some private involvement in these measures, but allowing individual firms such as Facebook or Google to determine the parameters or boundaries of access to digital technology has some undesirable features, even though ostensibly individuals are free to choose such services or not.⁵ The technical issue revolves around questions of lock-in, network externalities, and barriers to future entry and competition.

Probably the easiest and least intrusive approach is for government to invest in building a robust and widely accessible digital infrastructure that can provide a low-cost platform for small firms and individuals alike.⁶ Again, it is important to note that providing infrastructure in this manner does not require the government to build and manage access points. Rural local governments or post offices might be natural digital access locations, but they can suffer from the incentive problems that plague government organizations. It might make more sense to allow and even encourage private entrepreneurs to manage access points and provide value-added digital services.⁷

Polity

India has a tradition, even pre-dating its post-independence 'commanding heights' approach to the economy, of viewing government as *maa-baap sarkaar*. This paternalistic perspective has persisted alongside a modern democracy. Of course, a 'welfare state' can also be viewed as an expression of true democracy, providing protections and opportunities to citizens of all economic classes and social backgrounds. Balancing individual autonomy and collective responsibility is a deep topic that is well beyond the scope of this short piece. The point to be made here is that, by making government more transparent, by demystifying its inner workings, and by allowing more effective monitoring, digital technology can be extremely supportive of a shift from the traditional concept of ruler and ruled to one in which the government and its functionaries are agents of citizens. This overall attitudinal shift is a possible by-product of the use of digital technology in specific ways to improve particular aspects of the delivery of public goods and services.

The effectiveness of democracy depends on tying the rewards of elected members of government to the overall performance as rulers. These rewards can be pecuniary, non-pecuniary or both, and are prolonged through re-election. Hence, the role of digital technology in permitting better assessment of government performance is crucial. This can include transparency of budgeting, evaluation of the success of various projects and expenditure schemes, and so on. If digital technology allows for more accurate measurement of government performance, and effective sharing of that information with voters, then it can improve the effectiveness of 'voice' as an accountability mechanism in a democracy.⁸ The Internet, in this context, allows greater democratization of information flows, and makes it more difficult for a government to monopolize information channels and distort such flows, though it is not impossible for such tactics to persist in digital media (China is an excellent example). Again, a robust regulatory and legal framework is essential for maintaining openness as well as a level playing field in the electoral process.

The electoral process can still be subject to unequalising influences through digital technology. Maintaining web sites and pumping out Twitter messages does require resources, and those with access to greater financial resources can also use the Internet more intensively. Nevertheless, the ability of ordinary individuals to share information and opinions on the Internet is much greater than in the pre-digital world. There is also the danger, of course, that misinformation and inflammatory messages can be spread more quickly and widely via digital media, so, as is invariably the case, the impact of the technology depends on how individuals use it, and the social norms that develop. In this case, regulation is not something that should be used lightly, since the right to free speech is important to protect: again, digital technology just provides a new arena for familiar issues to present themselves for evaluation and debate.

In the Indian context, it seems too soon to say how digital technology will impact the political process. Political parties have taken to digital media enthusiastically, and it does seem to provide a new means of connecting with citizens, potential voters and party supporters, but, as in other countries, it is not clear whether these wider but relatively shallow

digital connections will lead to deeper political engagement. To some extent, until the digital infrastructure is in place for citizens to engage in more sustained and regular assessment of government performance, the influence of digital technology on the political process will be limited. Political leaders in India can still expect to rely on personal contact with the rural masses to make their case for being elected to office.⁹

The above discussion has been in the context of ‘normal’ politics, centred on periodic elections, though in India the issue of misinformation and inflammatory speech crops up in issues revolving around caste and religion. Another example was the infamous gang rape in Delhi in 2012, where a societal issue became so salient that it required an immediate and somewhat *ad hoc* political response. In that case, digital technology allowed for the organization of relatively spontaneous public demonstrations and protests, allowing ‘voice’ to be articulated in a very different way than the ballot box.¹⁰ Of course, in countries lacking democratic structures, the Internet and the web platforms that it enables have permitted much more dramatic large scale public expressions of political voice in the streets and squares of cities. Tahrir Square in Cairo and the broader Arab Spring it spawned are the most famous examples. Ultimately, however, these examples also illustrate the limits of digital technology to change politics in the face of determined government repression. Digital technology can be a contributor to greater political freedom, but it is nowhere near sufficient to achieve that goal.

On the flip side, as was alluded to in the case of *Aadhaar*, the government’s ability to conduct surveillance of its citizens is greatly enhanced by the existence of digital databases as well as the ubiquity of digital communications. Digital databases that are designed to improve the delivery of government benefits to citizens can become the foundation of tools for monitoring and control. Digital eavesdropping, as was revealed in the Edward Snowden case in the United States, is easily seen as an essential tool for maintaining national security in a time of global terrorism. Claims of sedition or anti-nationalism can become the basis for massive digital invasions of privacy. As the ongoing debates in the United States highlight, there is not going to be any easy or clear-cut solution to these

challenges of managing the trade-offs of freedom and security in a digital age. As recent events in India make clear, the country is likely to struggle with these difficult issues as digital technology becomes commonplace among the masses.

Society

The brutal gang rape in Delhi was very much a symptom of a deeper and pervasive social issue, but such an extreme manifestation that it engendered a quick and prominent public articulation of concern and at least some political response, albeit an imperfect one. In general, digital technology, specifically the Internet, has the potential to facilitate this translation of social concern into political action in more diverse and far-reaching ways. Gender inequality is only one example of extensive fault lines that exist in Indian society. Others include caste, most obviously, but also important areas of life such as relationships, sexuality and mental health. In all these cases, social norms constrain or marginalise portions of the population in ways that represent significant reductions in freedom.

The Internet, by allowing for the sharing of information in safe digital environments (assuming that Internet trolls and bullies can be adequately kept out), permits communities and support networks to develop in ways that would not have been possible in a pre-digital era.¹¹ In some ways, this is more basic than the formation of online political communities, since the kind of topics and concerns that can be addressed in shared-interest networks are often at the root of living satisfying and fulfilling lives. Of course, online communities also form based on shared interests such as food, exercise, or health, and in areas that are not subject to social approbation also can develop in new ways thanks to digital technology. However, these cases are not really ones where there is an opportunity to rethink and redefine social norms and social relations.

The Internet allows a new dimension of engagement and mutual support among those who might feel socially oppressed due to some characteristic they possess, and thereby enhance their freedom in at least a limited manner. The most positive outcome of such engagement is the normalisation and

greater acceptance of such characteristics, and changes in attitudes that extend beyond gated online communities, though that is by no means guaranteed. The mechanisms by which such changes can occur include sharing of individual strategies as well as the development of collective strategies, both of which can be (though not always) easier to achieve in an online context than in more traditional settings of interaction. Again, an obvious contributor to these possibilities is the low cost of interaction and the scale that is possible. While these factors may lead to large number of poor quality interactions in more general contexts (even in shared interest online communities built around topics such as sports or finance), it is arguably the case that those facing discrimination or other social barriers are more likely to bring sensitivity to online settings aimed at addressing their predicament.

Once again, digital technology also introduces less positive possibilities for social change. One of the most glaring examples is that of online pornography, which has become extraordinarily pervasive. While pornography raises issues even in the context of societies such as those of the United States and Europe, where inequalities based on gender and sexuality have been more openly addressed and ameliorated, its impact in a society like India may be more problematic, even working against efforts to address pervasive violence and discrimination against women in that country. The current national government, perhaps not motivated by modern feminist or humanist perspectives, but instead more by traditional conservative social norms, attempted to block several hundred online pornography sites. Interestingly, this led to a firestorm of protest against this abridgment of individual freedom, a much greater reaction than to almost any other issue of social justice or attack on freedom in India.¹² Of course, the ban was ineffective in practice because of the enormous number of such web sites, and the impossibility of blocking them all: it was mostly rescinded, though some individual internet service providers have retained it. What is telling is the addictive nature of such sites, which was revealed by the reaction to the ban.

Pornography is obviously not the only example of problematic social influences enabled by digital technology. Online gambling is another well-

known issue. Sales of illegal substances are also facilitated by the Internet, particularly the so-called 'Dark Web', which has restricted access and is not indexed by search engines. Dark Web sites also facilitate the sale of stolen identity information. For a country like India, where governance is already quite weak in many respects, dealing with such cyber-security challenges will be a daunting task.

Conclusion

Digital technology is having a profound impact on how individuals work, play, shop and interact socially. The social fabric is also changing, as all these activities have social components. The conduct of government and how interactions with citizens take place are also being altered. There are many positive aspects of this process; in particular, reduction in transactions costs both in market settings and within public and private organizations, all enhance the efficiency of resource use in ways that were once unimaginable. This increase in efficiency may seem like a marginal improvement when it comes to things like online shopping, but in an era where global warming looms large, managing energy use and greenhouse gas emissions will be extremely important, and digital technology will play a vital role in this management. If development is freedom,¹³ then India's long-run trajectory of development is likely to require harnessing digital technology rapidly and pervasively. This argument needs to be stated quite forcefully, since there has been a tendency in India to view the Internet as a luxury, as telephones and cars were once perceived in government policymaking. Interestingly, many politicians have been quicker to see the potential of digital technology as a 'game-changer' than have India's development intelligentsia.

However, the national government's own vision of Digital India, while more coherent and broader-based than earlier initiatives in e-governance, is still too government-centric, and does not focus enough on the wider potential of digital technology in India's economy.¹⁴ In addition to some of the issues highlighted in the current piece, using digital technology to improve the quality of and access to education at all levels continues to be relatively neglected in Indian education policy.¹⁵

Aside from these instrumental uses of digital technology to enhance and accelerate material progress, this piece has discussed the impact of this complex of new technologies on politics and society in India. Here, there are many glimmers of hope for greater freedom of expression and mitigation of social constraints and inequalities. Again, digital technology is only an enabling tool and it can also be used in repressive ways by those with the power to do so, whether private or public entities. Rulings by the telecoms regulator on net neutrality are positive indicators, as are some articulations in the media and intelligentsia, but the current national government seems to have a relatively constricted view of the value of social diversity and the importance of individual freedom of expression.¹⁶ If this is the case, digital technology platforms are likely to become somewhat of a battleground of freedom as India moves toward a hopeful embrace of the digital era.

NOTES AND REFERENCE

- ¹ For a broader and in-depth discussion of digital technology and India's economic development, see Nirvikar Singh, "Information Technology and Its Role in India's Economic Development: A Review", in *Development in India: Micro and Macro Perspectives*, eds. Dev, S. Mahendra and P.G. Babu, (New Delhi: Springer, 2016), 283-312. On issues of censorship and other restrictions of freedom of speech and interaction in India's digital sphere, see, for example, Patry, Melody Patry, *India: Digital freedom under threat?* Index on Censorship, Policy Paper, (November, 2013), <https://www.indexoncensorship.org/2013/11/india-online-report-freedom-expression-digital-freedom/>, and *Freedom on the Net: India Country Report*, (Freedom House: 2015), <https://freedomhouse.org/report/freedom-net/2015/india>. According to the latter report, India has an Internet freedom score of 40 on a scale of 0 (best) to 100 (worst). For comparison, this is much better than the two authoritarian BRICS countries, Russia (62) and China (88), but worse than the two other democracies, Brazil (29) and South Africa (27).
- ² "The Real-Time Economy: Re-engineering in real time", *The Economist* (January 31, 2002), <http://www.economist.com/node/949093>.
- ³ There is considerable research on these impacts in the context of the United States. See, for example, Goldmanis, Maris, Ali Hortacsu, Chad Syverson, and Onsel Emre, "E-commerce and the Market Structure of Retail Industries", NBER Working Paper No. 14166 (Cambridge, MA, USA: July, 2008). In India, not only is the development of e-commerce too new to conduct such analysis, but there is much that needs to be done in terms of creating the necessary legal and institutional infrastructure, on top of a starting point in which commercial contracting and consumer protection are not well-developed institutionally: see *E-Commerce in India, Legal, Tax and Regulatory Analysis* (Mumbai: Nishith Desai Associates, July, 2015).
- ⁴ See Kenneth C. Laudon and Carol Traver, *E-Commerce 2016: Business, Technology, Society* (New York: Pearson, 2016).
- ⁵ This example is, of course, the one that has been most salient in India. It happens to be one example of the more general issue of net neutrality, which can include differential access speeds as well as access and pricing. See Nirvikar Singh, "Why Net Neutrality?", *Financial Express* (April 30, 2015), <http://www.financialexpress.com/article/fe-columnist/column-why-net-neutrality/68116/>.
- ⁶ In this context, an objective of maximizing revenue from spectrum auctions may not be socially optimal. Parliamentary Jay Panda has offered an important and innovative solution to the problem created by a need to build infrastructure and increase market size in a situation where many consumers may be shut out by simple affordability conditions. He suggests using the Universal Service Obligation

Fund (which is a further source of government revenue extracted from the telecom companies), to allow the telecoms to reverse bid for building networks for rural and unreached areas. He also suggests providing electronic vouchers to poor consumers for purchasing internet access (wired or wireless)—through *Aadhaar* linkage. Both suggestions are desirable complements to net neutrality. See Nirvikar Singh, “Why Net Neutrality?”.

Again, see Singh, “Information Technology and Its Role in India’s Economic Development”, and the references therein.

- ⁸ See Albert O. Hirschman, *The Passions and the Interests: Political Arguments for Capitalism before Its Triumph*, (Princeton, NJ: Princeton University Press, 2013). Hirschman’s book was originally published in 1977, well before the digital revolution, but its conceptual framework remains relevant to the context of new technologies.
- ⁹ An interesting exception involves a very different kind of digital technology: in the last national election, holograms of Narendra Modi were used as a substitute for his physical presence at some political rallies.
- ¹⁰ See, for example, Akanksha Prasad and Indu Nandakumar, “Delhi gang rape case: Social media fuels rally at India Gate”, *Economic Times* (December 24, 2012), http://articles.economicstimes.indiatimes.com/2012-12-24/news/35991878_1_delhi-gang-adhvith-dhuddu-social-media.
- ¹¹ One example is for LGBT people in India: see, for example, Kyle G. Knight, “Living in public”, *Himal South Asian* (February 13, 2015), <http://himalmag.com/living-public/?currentPage=all>. Another example is that of mental illness, which is stigmatized in India – online support groups, such as those provided by aarogya.com, provide some limited relief in this context.
- ¹² See Patry (2013) and Freedom House (2015) for numerous examples of restrictions on Internet freedom in India. By contrast, the Digital Freedom Foundation of India (<http://www.dff.org.in>), which promotes the use of open source and free software for extending education access in the country, hardly receives any media attention, and appears to have limited funding or societal reach.
- ¹³ Amartya Sen, in his book *Development as Freedom* (New York: Oxford University Press, 1999), views economic development as involving political freedoms, freedom of opportunity and basic economic protections (a minimal level of freedom from want).
- ¹⁴ See Nirvikar Singh, “Achieving Digital India”, *Financial Express* (August 27, 2015), <http://www.financialexpress.com/article/fe-columnist/column-achieving-digital-india/126178>
- ¹⁵ This is not to say it has been totally neglected. However, the conceptualization

and implementation leave much to be desired. See Nirvikar Singh, “Educating India Digitally”, *Financial Express* (May 8, 2015), <http://www.financialexpress.com/article/fe-columnist/column-educating-india-digitally/70395>, and Nirvikar Singh, “Mission Ineffectual”, *Financial Express*, (May 14, 2015), <http://www.financialexpress.com/article/fe-columnist/column-mission-ineffectual/72266>

- ¹⁶ On the other hand, some sections of the intelligentsia seem to retain a suspicion of market-oriented material progress, and the role of digital technology in supporting that, including generating the massive number of new jobs that India needs to create in the coming decade or two.

Caste Reservations: Half Pregnant Constitution, Half Pregnant State

SURJIT S BHALLA

I would like to thank Prasanthi Ramakrishnan for excellent research assistance and to Aman Ahluwalia for very useful discussions on the Indian Constitution.

This paper examines the logic, legality and practice of education and job reservations for the backward castes and classes. There is a lot of confusion, some of it deliberate on the part of the interest groups, about what the Constitution does, or does not say, about reservations. There is also considerable confusion about the difference between a policy of ‘reservations’ and a policy of ‘affirmative action’.

Section 1 discusses the constitutional aspects of reservations, and Section 2 discusses the policy of providing reservation benefits to OBCs (Other Backward Classes). Section 3 delves into the distinction between reservations and affirmative action. Section 4 discusses the simple fact that the one socio-economic group not benefitting from the ill-thought policy of reservations is the section of society that could most benefit from them—the Muslims.

1. The Proof is in the Constitution

The Indian Constitution is correctly seen as a document that concerns itself more with the rights of communities and the state than the rights of individuals. When talking about rights of individuals, it ends

up, somewhat embarrassingly, contradicting itself. That is something a legal document like the Constitution is expressly forbidden to do.

The received wisdom, and practice, of caste-based reservations in India consists of three major beliefs. First, the Constitution guarantees that Scheduled Castes (SCs) and Scheduled Tribes (STs) should have reservations in educational institutions and public sector jobs and that these are the only set of individuals for whom the Constitution makes a guarantee. Second, the Constitution 'allowed', after the acceptance of the Mandal Commission report in 1980, the extension of these rights to OBCs (Other Backward Classes). Third, the reasons Muslims have not been able to obtain anywhere near their fair share of benefits is because the Constitution prohibits discrimination (and hence reservations) on the basis of religion. The truth is that both the first two beliefs are wrong and that the third belief is a half-truth. The rest of this section documents this tragic reality.

The Constitution appears to believe in individual rights. Article 14 of the Indian Constitution clearly states that all are equal before law in India: 'The State shall not deny to any person equality before the law or the equal protection of the laws within the territory of India.' To make sure the message gets through, there is Article 15 that deals with 'Prohibition of discrimination on grounds of religion, race, caste, sex or place of birth.

(1) The State shall not discriminate against any citizen on grounds only of religion, race, caste, sex, place of birth or any of them.'

Having established the principle of human rights and equality before the law, the Constitution begins to get into twists. One would think that women and children are also citizens of India. But the social engineering design of the Constitution, supposedly a document to right all wrongs, is revealed by Article 15(3) that states, 'Nothing in this article shall prevent the State from making any special provision for women and children.' What the Constitution is trying to state is that all are equal, but that women and children, who constitute approximately two-thirds of the population, are more equal than others, and state power can be used to enhance their stature and well-being.

The confusion about what should be law (human rights) and what should be policy, is best revealed by the next clause in Article 15(4) that states, 'Nothing in this article or in clause (2) of Article 29 shall prevent the State from making any special provision for the advancement of any socially and educationally backward classes of citizens or for the Scheduled Castes and the Scheduled Tribes.'

Article 29 has to do with the protection of interests of the minorities and states,

Protection of interests of minorities.

(1) Any section of the citizens residing in the territory of India or any part thereof having a distinct language, script or culture of its own shall have the right to conserve the same.

(2) No citizen shall be denied admission into any educational institution maintained by the State or receiving aid out of State funds on grounds only of religion, race, caste, language or any of them.

In other words, what the Constitution is saying is that all are born equal, but some, especially SCs and the STs are born more equal than the others. In addition, and this is noteworthy, if you are poor and not SC or ST, you have equal rights to whatever reservation policy the government introduces. So the big question that deserves to be examined is how did it come to pass that only SCs and STs were granted reservations in jobs and educational institutions until the imposition of the Mandal Commission?

For clues, we have to read Article 16 of the Constitution, and read it somewhat carefully. As usual, the Article starts off with enunciating the lofty principles of equality. Article 16 of the Constitution is similar to Article 15 except that it deals with employment in the public sector. Article 16(4) is a near identical clause to Article 15(4), and states that 'Nothing in this article shall prevent the State from making any provision for the reservation of appointments or posts in favour of any backward class of citizens which, in the opinion of the State, is not adequately represented

in the services under the State.’ So far what the Constitution establishes is that the SCs and STs deserve reservations along with other ‘socially and educationally backward class of citizens’. But where is the constitutional guarantee for SCs and STs at the expense of the other poor? And where are the OBCs in the Constitution?

For a direct reference to SCs and STs, one has to go to Part IV of the Constitution entitled *Directive Principles of State Policy*, a part of the Constitution meant for guidance to policy, but not law!

Application of the principles contained in this Part (IV) - 37. The provisions contained in this Part shall not be enforceable by any court, but the principles therein laid down are nevertheless fundamental in the governance of the country and it shall be the duty of the State to apply these principles in making laws.

Promotion of educational and economic interests of Scheduled Castes, Scheduled Tribes and other weaker sections -

46. The State shall promote with special care the educational and economic interests of the weaker sections of the people, and, in particular, of the Scheduled Castes and the Scheduled Tribes, and shall protect them from social injustice and all forms of exploitation.

Note that even in the Directive Principles, the constitutional provision of reservations for SCs and STs is, at best, that of first among equals. They comprised the poorest of the poor in 1950 when the Constitution was adopted, and had suffered from centuries of discrimination. The fact that they needed active support of the government in the form of affirmative action is beyond doubt or discussion. The issue on which there should be some debate is whether the state did ‘wrong’ by not following through on reservations for other economically and socially backward citizens.

The conclusion so far is that the Constitution of India did not grant, and has not granted, exclusive reservations based on caste. If the SCs and STs have been granted this privilege, then it is the political class (along with

the Supreme Court) that has done so, not the Constitution. So from where does the impression that SCs and STs have been granted privileges by the Constitution come from? Does it come from Article 330 that talks of the 'reservation of seats' in Parliament?

Reservation of seats for Scheduled Castes and Scheduled Tribes in the House of the People -

1. Seats shall be reserved in the House of the People for —
 - a. the Scheduled Castes;
 - b. the Scheduled Tribes except the Scheduled Tribes in the autonomous districts of Assam; and
 - c. the Scheduled Tribes in the autonomous districts of Assam.

The original intention of the Constitution (and Dr. Ambedkar) was that this granting of reserved Lok Sabha constituencies would last for only ten years. However, this article has been amended every tenth year for another ten years. The 95th Amendment to the Indian Constitution, passed in 2009, extended the SC/ST legislative quota up to January 26, 1950.

There are two inconvertible facts about the policy of reservations in India. First, the group of people comprising the SCs and STs have reservation rights in terms of seats in parliament. In the Lok Sabha, there are 120 such seats (79 for SCs and 41 for STs). The Constitution also grants similar such rights in the state legislatures. This right was set to expire in 1960, but Article 334 of the Constitution has extended this right every ten years, and the latest constitutional provision is for the Parliament to have a relook at it in 2020.

2. Reservations for SCs, STs, and Otherwise Backward Classes (OBCs)

In 1979, the Mandal Commission was set up under the chairmanship of Bindheshwari Prasad Mandal to look into the constitutional provision of reservations for the 'educationally or socially backward classes'. There was explicitly no mention of caste in the terms of reference for the Mandal

Commission. However, the reality is that the Mandal Commission seems to be all about caste. The Commission came to the conclusion that approximately 54 percent of the population belonged to socially and educationally backward class, that is, Other Backward Classes (not castes)! This backward class was excluding the SCs and STs and since they were backward, they fit into the constitutional guarantee of reservations.

The previous section documented how the interpretation of the Constitution has been contradictory to both the spirit and letter of the Constitution. This section documents how the Supreme Court has gone one step further by implementing the 50 percent limit on reservations.

The 50 percent limit on reservations came with the acceptance of the Mandal Commission report on defining Otherwise Backward Classes (OBCs) as being beneficiaries of caste reservations. The Mandal Commission undertook considerable research to document the number of OBCs in the population, and those being economically backward, reported them as deserving of reservations. According to the Indian poverty line, about 40 to 45 percent of the Indian population was absolutely poor in the early 1980s.

The 'economic' indicators used by the Mandal Commission to determine backwardness were:

- Castes/classes where the average value of family assets is at least 25 percent below the state average.
- Castes/classes where the number of families living in *kachcha* houses is at least 25 percent above the state average.
- Castes/classes where the source of drinking water is beyond half a kilometer for more than 50 percent of the households.
- Castes/classes where the number of the house-holds having taken a consumption loan is at least 25 percent above the state average

The Mandal estimate for OBC was that they comprised 54 percent of the population. SCs and STs comprised about 26 percent of the population.

Acceptance of the Mandal Commission report by the government meant that possibly 80 percent of the population—54 percent OBCs and 28 percent SCs and STs—was eligible for caste reservations in schools and public-sector jobs.

How accurate is the Mandal estimate of 54 percent OBCs? Not very accurate at all. Consider this – the absolute poverty level in the mid-1980s was 45 percent of the population. Unless “backward class” meant an income level considerably higher than the absolute poor, the Mandal OBC estimate was questionable. Direct proof that the Mandal OBC estimate was incorrect was provided by the National Sample Survey Organization (NSSO), which in 1999/2000, estimated *that OBCs were only 36 percent of the population, and most manifestly not 54 percent.* Thus, it appears that a massive social policy in India was initiated with complete disregard for the simplest of facts—the *actual* percentage of the OBC population.

The Mandal estimate posed a dilemma for the Supreme Court. Could they decree that reservations should be provided for 80 percent of the Indian population? They couldn’t so the SC took the half-pregnant route – they decreed that while the reservations for OBCs was constitutional, such reservations could not exceed 50 percent. Where does the 50 percent figure come from? Most likely is derived from an earlier Supreme Court judgment (T. Devadasan vs. Govt. of India, 1964), which related to the speed at which vacancies in government jobs were filled for SCs and STs. Not able to come at an objective standard for the speed, the SC decreed that no more than half (50 percent!) of all the government jobs available could be filled by quotas in any given year.

Can one be half-pregnant? No. Neither can one draw an arbitrary line at which past historical wrongs stop. Once on the slippery path of illogic, one stays forever on that path. One amendment follows another, one injury with another, a smaller tinkering (Band-Aid) replaces a bigger one. The Tamil Nadu government wants 69 percent reservations—30 percent for backward classes, 20 percent for most backward classes, 18 percent for SCs and 1 percent for STs. But the Supreme Court had ruled that quotas cannot exceed 50 percent. However, our lawmakers

came up with the 76th Amendment in 1994, allowing Tamil Nadu government to operate with 69 percent quotas. Incidentally, given that everything is constitutional, and possible in India, what aspect of the Constitution says that there should not be OBC quotas in the army or in the Parliament?

Re-Examining the 54 Percent OBC Estimate

If absolute poverty is an approximate criterion, then it was shown above that the 54 percent OBC estimate was out of the ballpark. Why? Because the NSSO had found OBCs to constitute only 36 percent of the population. How accurate is the NSSO estimate? There are two reasons why this estimate is about right. First, this estimate of OBCs in 1999-2000 is very close to the 31 percent estimate obtained in the 1931 Census. The difference between 31 percent (in 1931) and 36 percent (in 2000) can easily be explained by Partition. This is plausible since it suggests that the OBCs had been similar to an 'average' Indian, hence the population growth rate should be approximately the same as the average, and hence the share should stay relatively constant at 31 percent or so, which appears to have been the case in 1999/00.

A second reason to doubt the Mandal estimate is to look at the 2004/5 NSSO survey. This survey found that the OBC share of the national population had increased to 41 percent. In the five years, 1999-2000 to 2004-05, the OBC population grew at an annual rate of 4.4 percent.

Is an OBC population growth rate of 4.4 percent a year plausible? No. Because even the Hutterites' (who do not practice any birth control and have an average fertility rate of 9 children per woman) population growth rate has never exceeded 4 percent a year. It is biologically not possible, not even for Mandal fecund OBCs. So what happened? Non-OBCs, in order to obtain the irrational government mandated manna, simply changed their caste! More and more castes, economically deserving or not, joined the umbrella OBC category.

3. Affirmative Action versus Reservations

Policies aiming at decrease in education and income inequality have been geared towards caste based (quota) reservations for education and government jobs, rather than on affirmative action. The distinction between reservations and affirmative action is important. With a quota for education, and/or jobs, the ‘color of your skin’ matters most, not your need, merit, or competence. With affirmative action, economic disadvantage is paramount (that is, how poor you are and whether in need of state support), and is explicitly based on a ‘caste no bar’ criteria.

In India, many learned scholars (especially on the Left) keep confusing reservations with affirmative action. The latter policy is one where positive steps are taken (like income transfers and scholarships) to help the integration of formerly excluded members from the mainstream. It does not matter whether the poor, or the discriminated against, are Hindu, Muslim, Sikh, Christian, SC, ST, Buddhist, Jain or Parsi. The poor are economically and socially disadvantaged and it is imperative that they be helped by the state, and helped considerably more than all others.

The following analogy might help in understanding the difference between reservations and affirmative action. When economic reforms were introduced in 1991, there was a movement away from the inefficient (and prone to heavy corruption) industrial licensing and quota system (who can produce what and in how much quantity) to an incentive based price system.

Affirmative Action for Education

The stated goal of affirmative action is for the state to provide equal opportunities to all citizens. Since education is the major asset of most individuals, state support is needed to provide the opportunity for education. Provision of education opportunities starts at the primary school level. Poverty deprives individuals from attaining education to the best of their ability. Hence, the need for income support (only one form of which is a scholarship) for the poor. Poverty afflicts all castes and religions,

and there is a need to address the concerns of all 'socially and economically backward' citizens, a group which incidentally includes Muslims, non-OBC and non-SC and ST Hindus.

Just as there are very few people opposed to taxation and redistribution (the fact that the rich people pay more in taxes than the poor is a form of redistribution), so there are very few people opposed to some form of affirmative action. The differences arise in the nature of policy, and in the case of reservations or quotas, the policy is at such extreme variance with the principles of universal justice that it should not be considered as belonging to the family of affirmative action.

Affirmative action at the college level is not as straightforward for the simple reason that attendance requires that one have *passed high school*. Reservations for colleges, to be successful and/or have any meaning, means that the school system should have provided equal opportunities *earlier*.

How should one provide equal opportunity at the college level? In the quota system, public universities like the Indian Institute of Technology can set up discriminatory rules in the form of ability or minimum standards. In the present quota system, all quota individuals cannot get into many good colleges. But in a voucher system, where effectively the state guarantees equal opportunity, the non-able SCs and STs will be able to enter some private sector college. She would have the ability to pay the capitation and other fees (via government provided education vouchers) to any university that admits her – and some college will be willing, no matter how unmeritorious the candidate. Note that this means a level playing field for the not so bright kids from both rich and poor families.

4. The Effectiveness of Reservations

It is worth examining the effectiveness of education policy in benefitting the backward classes. Table 1 documents the educational achievement (or attainment) of different castes and classes in India for the period 1983-2011.

Table 1: Index of Educational Attainment for All-India

Group	Index of Educational Attainment					
	1983	1993	1999	2004	2009	2011
SC	2.9	3.8	5.3	6.4	7.6	8.4
ST	2.3	3.2	4.6	5.1	6.9	7.4
SCST	2.7	3.6	5.1	6.1	7.4	8.1
OBC			7.1	8.3	9.9	10.7
Muslim	4.4	5.2	6.4	7.2	8.2	8.6
Others	7.0	7.6	12.4	13.8	14.9	15.3
All	5.7	6.3	7.9	8.9	10.2	10.8

Source: NSSO Employment-Unemployment Surveys, various years

Note: 1. This is calculated by dividing the population aged 15 to 59 into six categories and calculating the percent of each group in each category - illiterate, primary education, secondary education, higher secondary education, graduates and post-graduates. These are then weighted by the years of education to arrive at the final index.

Table 2 documents the rate of change for this period for men and women. The simple result is that SCs, STs and OBCs all show large improvement in educational attainment, regardless of sex and/or the time-period considered, while the improvement in Muslim education is the least.

Table 2: Rates of Improvement in Education, by Sex – 1983-2011

Group	Annual Percentage Change in Education (1983-2011)		
	Male	Female	Total
Muslim	1.9	3.7	2.6
SC	2.6	5.8	3.6
ST	3.4	6.5	4.5
SCST	2.8	6.0	3.9
OBC	2.6	4.6	3.4
Others	1.7	3.5	2.4
All	1.6	3.4	2.3

OBC are calculated for 1999-2011

It could be argued that ‘culturally’ Muslims do not have as great a demand for education as the Hindus, and therefore their rate of progress has been lower. But perusal of data for other Muslim countries suggests that this is *not* the case. Every predominantly Muslim country has a higher rate of improvement than India, excepting Indonesia, Malaysia and Bangladesh. The first two have considerably higher levels of educational attainment, and hence show a slower rate of improvement. Bangladesh is a real outlier, at least according to the international data compiled by economists Barro and Lee. In Pakistan, average education (according to Barro-Lee) has increased at a 3.1 percent annual rate, 1983-2011 compared to a 2.6 percent annual rate for Indian Muslims.

The net result is that, all things considered, there is only one community deserving of any affirmative action in education and employment in India – the Muslims. There is no data to substantiate that the relatively privileged OBCs should get any additional benefits. Indeed, data suggests that the Indian government should make an all-out effort to bring the Muslims at least up to par with the SCs and STs before any passage of any legislation for any other community.

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Worry about Opportunity, Not about Inequality

GURCHARAN DAS

Our desire for equality is a natural human impulse but we must not give into it unthinkingly. Many of us are sickened by the vast differences in the life prospects of our citizens in India. We are even uneasy about nature's unfairness. Why should a prettier face get rewarded during the marriage season? Why should a person who happens to be born brighter also earn more? Neither person's reward, one feels, is as well deserved as say someone who works hard and contributes to society. We are equally offended by the hierarchical mindset at the workplace: 'What is right is what the boss wants.' Or in politics: 'Touch my feet, my son, and I will protect you'. We may not be able to correct the unfairness of nature, but we ought to try and fix some of the manmade injustices around us.

The Human Ego will not Shrink That Far

Looking back, communism's great appeal was its promise of equality. Certainly India's path of democratic capitalism leaves much to be desired. But it doesn't mean all our social and economic arrangements are unsatisfactory. It only means that our path does not live to an ideal. While equality is desirable, most sensible Indians would now agree that the quest for absolute equality is hopelessly idealistic. Unattainable ideals create their own problems—too often they give someone a stick to beat others into submission. This is the unhappy story of twentieth century history. Hannah Arendt said famously, "You can't make an omelette without breaking eggs; but you can break a great many eggs without

making an omelette.” She was referring to the many attempts to create an egalitarian society.

All the grand revolutions of the twentieth century failed spectacularly, killing millions of people and causing great sorrow. The pursuit of equality resulted in the sacrifice of tens of millions, mainly in Russia and China. We in India fortunately escaped these violent outrages, but we did pay a great price in missed opportunities during the lost decades of Nehruvian socialism and the Licence Raj. The main lesson we have learned from the failure of these egalitarian revolutions is that the human ego will not shrink that far. We have realised our limitations and become more humble in our attempts to cure nature. Hardly anyone talks about abolishing private property anymore.

Yet we cannot give up on social justice. After all, equality is one of two core ideals in the liberal creed. If we cannot achieve absolute equality, can we at least strive for something more modest - the equality of opportunity? Can we try and see that everyone has a more equal start in life? By opening doors that were hitherto closed, by giving everyone access to good education and health care, we might have the chance for achieving a more realistic form of social justice. The state can play a significant role in this. It does not have to run schools and hospitals but it does need to provide for them. With the right policies, the economy can also create jobs and opportunities. In this way, people can rise above their lot through upward mobility. Rather than obsess over inequality, we should monitor the progress of our society in creating opportunities and in reducing extreme poverty.

The history of the last two decades of the twentieth century and the first decade of the twenty-first century shows that this is possible. In particular, China and India, which account for more than a third of humanity, have lifted hundreds of millions of people into the middle class. In addition, more people on the earth have risen out of poverty in these three decades than at any other time in human history. This has happened primarily because of sustained high economic growth, and as a result of consistent market friendly policies, both under democratic as well as autocratic setups.

‘Vulgar CEO Salaries’

Despite this great achievement, the rhetoric of inequality has not diminished in India or around the world. Not a day goes by without someone complaining of ‘vulgar CEO salaries’. Thomas Picketty has spoken eloquently against inequality in recent times. The French economist’s answer is a progressive global tax on the ultra-rich. Reports appear frequently on the growing compensation gap between employees within companies. In 2015, such a report appeared in India and it set off the usual outrage over corporate salaries. Television channels went berserk over the lifestyle of Vijay Mallya, an industrialist, who was a major debtor to India’s perilous banks after the collapse of Kingfisher Airlines. On the other side of the globe, Hillary Clinton’s campaign for the presidency got into trouble from a democratic challenger, Bernie Sanders, largely based on the rhetoric of inequality.

More than half of century of democracy in India - of which the first forty years were under the powerful influence of socialism - has created a powerful illusion that if we are equal in one respect then we must be equal in every way. As citizens in a democracy, we are clearly equal before the law with equal rights, but this sensible idea should not be subverted to mean more. As a result of this subversion, the Indian state became shy to reward persons of talent and to punish non-performers. The accursed principle of seniority became sacrosanct among government employees. Even the elite civil services now compensate its members on the basis of the years of service and do not promote them on performance. Unless this is changed, India’s civil services are doomed to mediocrity.

On the other hand, Indian companies have responded in the opposite way after the 1991 reforms. They have been surprisingly nimble and many have become global. One of the reasons for their success is the realisation that only talented individuals build a good company. They have internalised the 80:20 rule - 80 percent of the results are delivered by 20 percent of the people. Hence, they quickly began to reward the talented and the salaries of top, high performing executives rose rapidly. This created a problem with the parties of the Left, and when they

returned to power in the central government as junior allies of the Congress Party in 2004, they decided to act.

If greed is the vice of capitalism, envy is the flaw of socialism. The Left in India had grown up to believe the Marxist dogma, 'from each according to ability and to each according to his need.' This has been its rallying cry in its failed desire to create a classless, egalitarian society. They did not realise that socialist societies have turned out to be the most envious in human history. 'The searing heartburn of envy causes a choking feeling in the throat, squeezes the eyes out of their sockets', says a character in Y. Olesha's 1929 novella set in the Soviet Union, where turning in your neighbour for his perceived advantages had become a way of life. The philosopher, John Rawls in his *Theory of Justice* (1971), reminds us that 'a person who envies another is prepared to make both persons worse off to reduce the gap between them.'

In response to the concerns of his Left allies in the UPA government, Minister of Corporate Affairs, Salman Khurshid, created a stir in India in 2009 when he warned companies to refrain from paying 'vulgar salaries' or face government regulation of compensation. He made a reference in his speech to the opulent life-style of top executives and business people. But Khurshid soon realised his error and pulled back after a few days. 'Only the company's shareholders can decide salaries...It cannot be mandated, but should be self-exercised,' he said contritely. Yes, this is the right position - only shareholders have the right to fix salaries in a democracy, not the government. The significance of the minister's warning reflected a concern with inequality, but it is ironic that it should have happened in the midst of India's 'golden decade' of economic growth. Between 2003 and 2012, India experienced over 8 percent annual growth in GDP.

We Accept Inequalities If We Believe Them to Be Fair

Minister Khurshid was clearly embarrassed by his ill-considered remarks, which were the result of huge pressure from his Left allies. The Left parties continue to believe that you have to make the rich poor in order to make the poor rich. Fortunately, the rest of Indian society has moved on and the majority of the people do not seem to mind if a few become 'filthy rich',

increase society's wealth, and help raise the economy's investible surplus. The influence of the Left has since diminished. Even the stronghold of Bengal has been lost to the Marxists. The average person in India does not seem to care how much Mukesh and Anil Ambani earn as long as they create lots of jobs, pay their taxes and produce wealth for society and its citizens. He mostly cares about how he is faring. Yes, he sometimes does compare himself to his friends but almost never to the 'filthy rich'.

It is becoming apparent to people in India that controlling corporate salaries will not help to lift the poor. The new social contract in India is moving in the direction of greater concern with reducing poverty rather than worrying about inequality. A number of editorials at the time of Khurshid's outburst reminded the Minister of Corporate Affairs that he could make a huge difference to the poor by making it easier for a person to start and run a business. The vast majority of Indians are self-employed entrepreneurs in the informal economy. They do not enter the formal economy because of formidable barriers of red tape and bribery. Hence, India had the distinction of being 134 in a list of 180 countries in the 'ease of doing business'. The minister was also profoundly wrong in his reference to the life-style of the rich. The trouble with judging other people's lifestyle is that soon you are tempted to control other things, and this is a short step to the command economy. Not to live ostentatiously is a call of *dharmā*, not a legal duty or something that a liberal state should concern itself with.

The top ranks of the media and the academic world, however, continue to be dominated by a Leftist mindset. Hence, it is common for reports to appear periodically about 'growing inequality', and it always sets off editorial outrage. Since the strident rhetoric against inequality will not go away, the political class in a democratic society must be equipped to demonstrate that inequalities are justified in a free society. Capitalism does have a tendency towards inequality, and the public must be educated to accept it as the price for efficiency and for the enormous risk that entrepreneurs take in the marketplace where four out of five ventures fail. Out of this 'creative destruction' comes economic growth and technological innovation that makes everyone better off in the long term.

A growing economy that is continuously creating jobs and where people see themselves rising suffers less from envy. We accept inequalities if we believe them to be fair. If the average person is rising, he or she will not mind if inequality is growing. If the advantages of the affluent are perceived as a reward for improving the situation of the worse off, then the inequality will be perceived as more just. If the lowest worker in a company believes that his prospects will improve if his company performs well, then he will not resent an outstanding CEO earning 50 times more. The American political philosopher, John Rawls, elaborated this thought elegantly in his famous book, *The Theory of Justice*.

The Master Narrative Changes to Opportunity

Minister Salman Khurshid and the UPA government turned out to be hopelessly out of touch with the rapid changes occurring in Indian society. Two decades of reform had changed the values of India's society. Hence, five years after the minister's warning about inequality, India elected Narendra Modi in 2014. Modi won because he capitalized on these new values and went on to change the election narrative from inequality to opportunity. He spoke in a refreshing way about markets, property, and enterprise. He promised real jobs rather than bogus, 'make-work jobs' of the previous government's employment guarantee program. Sick and tired of the politics of give-aways, the Indian voter was charmed by Modi's fresh appeal to the aspirational impulse within us.

The typical voter who elected Modi in 2014 was a young, middle-of-road person, who had recently migrated from a village to a small town. He had got his first job and his first cell phone and now aspired to a life better than his father's. Modi gave him a sense of possibilities with his message of development and governance, making him forget his caste, religion, and village. The young aspirer became convinced that his battle was not against other Indians but against a state that would not give him a birth certificate without paying a bribe. During his campaign, Modi mentioned *vikas*, 'development', five hundred times for each time he mentioned *Hindutva*, 'Hinduness', according to a computer analysis of his speeches by Dr Walter Andersen, a former US state department official. For a young person who

had risen through his own initiative and hard work, *vikas* was a code word for opportunity in the competitive market place.

Modi's landslide victory affirmed the aspirations of the millions who had pulled themselves up in the post-reform decades through their own efforts into the middle class. Modi's rhetoric during his election campaign reinforced the same idea, making millions across India believe that a middle class society was a good society, and anyone could aspire to middle class status if they imbibed its values of thrift, ambition, industry and prudence.

It is more than two years since Modi came to power as this book goes to press, the outcome is unclear. The verdict is open whether Modi will deliver on his rhetoric. Although the new master narrative of the nation from equality to opportunity prevails, the economic recovery has been slow. With China's slowdown, India has become the fastest growing large economy in the world, but it will have to pick-up by one and a half to two percentage points to fully meet the challenge of jobs. The bigger failure has been to address the issue of universal quality education and health. Until that is done, India will remain far from achieving equality of opportunity.

The 'System of Liberty' Has to Be Sold

Adam Smith had referred to this ethic of opportunity as a 'natural system of liberty'. The government in this system is supposed to create an enabling environment that allows free individuals to pursue their interests peacefully in an open, transparent market. After that, an 'invisible hand' helps to gradually lift living standards all around and raising people into a dignified, middle class life. A quarter of century of painfully slow, incremental and incomplete reform has added up to make India a high-growth economy. The irony is, however, that many Indians still believe that the market makes 'the rich richer and the poor poorer' and leads to corruption and crony capitalism. Despite the competitive market having generated broad-spread prosperity over two decades, people still distrust it and the nation continues to reform by stealth.

India reforms furtively because no political party has bothered to explain the difference between being 'pro-market' and 'pro-business', leaving

people with the impression that liberal reform mostly helps the rich. They do not understand that being pro-market is to believe in competition, which helps keep prices low, raises the quality of products, and leads to a 'rules-based capitalism' that serves everyone. To be pro-business, on the other hand, means to allow politicians and officials to retain power over licenses, which distorts the market's authority over economic decisions and this leads to crony capitalism. This confusion explains the timidity of reform and prevents India from performing to its potential.

The blame lies partly with India's reformers who have not sold the 'natural system of liberty' as Margaret Thatcher did in Britain or as Deng Xiao Ping did in China. This job fell primarily on our chief reformer, former Prime Minister Manmohan Singh. But he did not even succeed in selling economic reforms to Sonia Gandhi and his own party, the Congress, which governed India from 2003 to 2014. This failure allowed the Congress to make a false trade-off between growth and equity. After its victory in 2004, the Congress party concluded that India's free-market reforms were not helping the poor and so it changed the government's focus to spending on welfare under the seductive slogan 'inclusive growth'. Instead of building infrastructure, it turned its energies to guaranteeing 100 days of employment to the poor, giving cheap energy, waiving loans to farmers, and enacting a food security law that would guarantee food to two thirds of India's population at ten per cent of the market price. As a result, investors lost confidence after 2012, inflation rose partly because spending was not backed by production, growth plummeted, jobs were lost, and hopes dashed for millions of young people.

This job has now fallen on Prime Minister Modi. Despite his rhetoric of opportunity, however, he appears to be a pragmatic moderniser, rather like the East Asian leaders who successfully transformed their countries. He is not a classical liberal like Thatcher, and unlikely to become an avid salesman for the competitive market. Hence, India will continue to reform by stealth.

The Gains in Social Equality

Everywhere people want to feel superior to others. All societies have

some sort of hierarchy. But this does not mean that they have a caste system. Only in India has hierarchy been institutionalised. Indian tradition separated the social classes and did not tolerate marriages between them. Neither did it allow them to change occupations, nor allow some to sit and eat together. The caste system seems to fragment India's social and political life, but how has it influenced modern economic life? Has the ethic of opportunity replaced the ethic of victimization among the low castes?

India's political solution to the social inequality of caste has been the affirmative action programme in the form of quotas or 'reservations'. *Dalits*, at the lowest rung, still suffer discrimination, but the old untouchability is virtually gone. Elections have put them in parliament, and reservations have given them jobs in the bureaucracy, the police, the public sector. They now have their own political parties and their millionaires. They have a Dalit Chamber of Commerce with 3500 members. They have produced a Chief Minister of India's most populous state as well as the President of India.

Other backward castes are no longer a persecuted minority; they are the majority. Earlier, they suffered caste oppression, but now democracy has converted their advantage in numbers into enormous political clout. Their clamour for quotas has succeeded and today half the jobs in the government and half the places in higher education are no longer based on merit but on quotas. The original aim of reservations was to accelerate the rise of the backward castes; it is now a sectarian tool to demand a share of the patronage.

India's caste system is in a state of transition. Almost 70 years of democracy has raised the status and esteem of the lower castes. Periodic elections have created vote banks. The lower castes have used politics to rise socially, and there is a social revolution under way, especially in the backward northern states. As noted, half the government jobs and places in colleges are now reserved. What democracy has done for caste in the twentieth century, capitalism will do in the twenty-first century, if reforms persist and the economy continues to grow rapidly. The better jobs, it is true, will go to the better educated. But as the lower castes begin to realise that the better jobs are in the private sector rather than the government, they will turn

to education rather than to reservations.

Caste certainly does not pervade modern economic life in the same way as it structures rural social life. The diffusion of economic growth will further weaken the old caste-occupation link. The old stereotype of village occupational rigidity was never entirely accurate; lower castes had always shown the capability of “moving up” or changing occupation. Modern organisations in the cities are forced to hire people based on merit and talent. As markets become more competitive – as they have since the 1991 reforms – this trend will hasten and caste should diminish further. One looks to the day when caste will become symbolic of ethnicity rather than hierarchy.

The Liberal Ideals of the Market and Democracy

In conclusion, the rhetoric of inequality will not go away soon. The most hopeful development is that the largest democracy in the world has also become a high growth economy. This has helped to change the nation's rhetoric from inequality to opportunity. History has taught us that one must forget the talk of absolute inequality unless one is willing to produce great crimes or suffer great costs in its name. The idea of a world in which all good things exist is not only unattainable but it is dangerous. Those who allow themselves to come under the spell of dogma, religious or secular, become victims of myopia and in the end become less human. Spontaneity is the fundamental human quality, and it is not compatible with ‘total solutions’, as Isaiah Berlin said.

We still have a long road ahead to deliver equality of opportunity. Almost all children are now in school in India but they receive a very poor education. The situation in healthcare is even worse. While not ruling out the unlikely possibility that human motivation might change one day and we might end the tyranny of inequality, we have to reaffirm unambiguously today that open markets, rules-based trade, and an obsession with quality education and health are the best engines to lift living standards and reduce inequality. Unlike the mood of diminished expectations in the West, ours is an age of rising expectations in India, and history will remember it as the time when India rose based on the liberal ideals of the market and of democracy.

Religious and Cultural Freedom in India: Both too little and too much

R. JAGANNATHAN

How a Weak State Has Compromised Religious Freedom, Individual Liberty and Free Speech

It is 66 years since Independent India adopted a 'liberal' and 'secular' Constitution, but it seems that we are far from achieving those exalted objectives. Recent controversies over religious conversions, bans on books and films deemed offensive to some groups, illiberal laws that try to determine what people should or should not eat, and the lynching of a man last in Dadri (Uttar Pradesh) over suspicions that he may be storing or consuming beef, tell us not only that basic individual freedoms are at stake, but that religious freedoms are being interpreted by governments to mean that nothing should ever be done to offend or upset any group or community. This may be politically convenient to some political parties seeking the creation of specific 'vote banks', but it does nothing to promote genuine liberality or even religious or cultural freedom.

The following examples are illustrative of the kinds of pressures that have built up on Indian secularism, and the inability of the state to meet its obligations under the Constitution, reducing the idea of secularism to an empty slogan. These examples are indicative of the widening gap between the Constitution's high ideals and ground reality.

Item: In January 2016, some women protestors demanded that the Shani

Shingnapur temple in Maharashtra should give them equal treatment. They wanted the right to pray at the sanctum sanctorum of the temple, something that has not been allowed by the village's 350-year-old tradition. Question: Do individual places of worship not have the rights to their own rules and traditions?¹

Item: The Supreme Court, in mid-February 2016, was hearing two petitions to allow women of all ages to enter the sanctum sanctorum of two places of worship. One is the Sabarimala temple of Swami Ayyappa,² and the other is the Haji Ali Dargah.³ In one case, it is Hindu women demanding equal rights to entry, even though the ban applies only to menstruating women, as Swami Ayyappa is said to be a celibate. In the other case, it is Muslim women fighting for equal space with the men in a popular shrine in Mumbai. Question: What is the right balance to strike between age-old tradition and equal rights for both genders? Is this a matter for the courts or for societies to settle internally?

Item: A representative of the Jamait Ulema-e-Hind files an application in the Supreme Court claiming that its decision to hear cases against triple talaq was unacceptable because the court could not intervene in personal laws. Question: Isn't this a direct assertion that the Constitution is secondary to religions law?⁴

Item: Perumal Murugan, a Tamil writer, announces one day in 2015 that he has stopped writing after his novel, *Madhorubbagan* - a fictional story about a controversial cultural practice called Niyoga but with real places and people mentioned - offended some caste groups. The Namakkal administration, fearing law and order problems, asked him to make peace with the angry community, and effectively denied him freedom to write. Question: Can the state just retreat when an individual's freedom of expression is threatened by groups threatening to take the law into its own hands?⁵

Item: Kamlesh Tiwari, an alleged Hindu Mahasabha member, made an intemperate remark about the Prophet of Islam, and Muslims in many cities organised violent protests, including one in Kaliachak in Malda,

West Bengal, where a police station was torched and several vehicles damaged. But the state government claimed it was nothing communal. Worse, it repainted the police station quickly and transferred all the personnel so that they won't talk to the media. Question: Is the state so scared of its vote-banks that it cannot even allow people to talk about what happened?⁶

Item: The Ramakrishna Mission, faced with direct interference by the Left-run West Bengal government in the running of one of its colleges, won a case in the Calcutta High Court in the 1980s after claiming the Mission was not a Hindu mission. The Supreme Court overturned the verdict and confirmed that Ramakrishna Mission was indeed a Hindu organisation. Question: What makes it so attractive for a religious organisation to claim minority status, when the constitution guarantees equal rights for all?⁷

Item: In January 2013, actor-director Kamal Haasan's film *Vishwaroopam* was given a two-week ban by the Tamil Nadu government on the ground that it may create law and order problems. The film, in which a Muslim dancer fights terrorism, was deemed hurtful to the community's sentiments, and the producer had to make compromises with the film to avoid financial losses of a high magnitude. Question: Can the state repeatedly use hurt sentiments to roll back creative expression?⁸

Taken as a whole, the above examples from India's experience show that our laws and their weak implementation have had the perverse effect of putting power in the hands of narrow interest groups, all in the name of protecting freedom of religion, even while denying individuals the same rights that are being granted to collectives of people or communities.

Perversely, the state also intervenes in areas that belong to the religious/cultural/traditional domain, as the recent efforts by the Supreme Court to end the restriction on menstruating women entering the sanctum sanctorum of Sabarimala shows. Respecting tradition, even if it sounds discriminatory, is not necessarily an issue of individual freedom. It is, at worst, an archaic practice that ought to be settled within the community concerned.

Kowtowing to religious groups has resulted in a severe curtailment of fundamental rights, including the rights to free speech and expression in which the derivative freedom of religion is rooted. It has impacted some rights of the larger community, resulting from an excessive focus on the so-called 'minority rights'. The very fact that there is a rush by groups to seek minority status, including the famous, abortive bid by the Ramakrishna Mission to declare itself a non-Hindu minority organisation, shows that even groups considered to be in a numerical 'majority' feel their religious rights to be under threat.

On the other hand, there is simply too much freedom – licence, in fact – given in the name of religious freedom. Loud music and processions that disrupt everyday life during religious festivals and events, *azaans* delivered on loud-speakers, and religious congregations spilling out into streets and parks ever so frequently are just some of the obvious encroachments on civil and citizen rights. Religious might is taking over religious right. Religious and cultural freedom, which ought to be available to every individual or a group of individuals without impacting or curtailing other people's religious or civil rights, is spreading itself to common areas. It is spilling over into public spaces, impacting other people's rights. There is simply too much religious freedom of one kind that is coming at the cost of more important freedoms that ought to be available to every citizen.

This paper will argue six main points. *One*, the balance of rights has tilted against individual and civil rights, both due to constitutional provisions, and through a repeated setting of wrong administrative and judicial precedents. It has empowered groups, including the most retrograde elements of some religious communities, to wield power over the individual and even the silent majorities in their own communities. The religious 'rights' of groups have been expanded at the cost of individual freedom.

Two, the Indian state and political system's efforts to preserve minority rights as opposed to just human rights has had perverse and illiberal side-effects, effectively nullifying the basic tenets of a liberal state and denying different communities equality under the law. It has put a premium on every community seeking the minority tag, even while actually doing little

for true minorities. The minorities within minorities are left particularly vulnerable in this scenario. A society's true minorities, the gays, lesbians and people with radically different persuasions, are being short-changed.

Three, gender rights have suffered grievous harm due to this emphasis on minority rights as opposed to human rights and the right to equality. While India has lagged in ensuring gender justice for all groups, this denial is particularly stark in the case of religious minorities, since the emphasis is on protecting 'minority rights' and not the individual or sub-communities within this minority. This is illustrated in the Jamait Ulema-e-Hind's plaint in the Supreme Court that it has no business deciding on the legitimacy of triple *talaq*.

Four, the idea of secularism has been mangled out of shape. Secularism is defined in the European context as the separation of temporal and religious power, with the two exercising exclusive power in different, often mutually exclusive, domains. In India, where secularism has come to mean equal respect for all religions, or non-discrimination against any religious community, the state has actually given itself direct or indirect powers to interfere in religious affairs. The *Haj* subsidy is certainly one of the most egregious examples of this direct state interference in what ought to be a private or group pursuit of religious edicts.

Five, even the courts have entered religious territory, with several judgments now quoting from holy texts to justify their verdicts. This is retrograde, for it is not the function of courts to use religious justifications for their decisions, which have to flow from the fundamentals of our Constitution and common sense.

Six, one underlying reason for this systematic chipping away of individual human rights lies in our a first-past-the-post electoral system, where the wooing of small groups can pay enormous dividends in terms of electoral success, especially where multiple caste- and community-based parties are simultaneously in the contest. Politicians, thus, prioritise the provision of private goods over public goods to identifiable sections of the electorate. By public goods, we mean goods whose consumption by any one does

not diminish its availability to another - like a fair judiciary, effective policing, or a solid external defence. The electoral preference for wooing voters with freebies (free laptops, subsidised food, fuel and fertiliser, *et al*) is understandable, and may even be necessary to help the truly poor and needy, but the consistent failure to provide public goods and services surely has some correlation to the lopsided use of state resources for providing private goods that deliver electoral dividends. In a situation where state resources are limited, parties prefer to offer tangible freebies to sections of citizens at the cost of public goods that benefit everybody - like more policemen or judges and quick delivery of justice. The Indian state's inability to enforce the law has a direct impact on all civil and individual liberties as it leaves citizens vulnerable to powerful interests, including thugs and criminals who can threaten violence.

The paper will conclude that we need to expand the area of free speech and constitutional protections to citizens. This may need constitutional changes, and also changes in our policing, legal and justice delivery systems to make the protections given to individual free speech and basic freedoms effective. The protection of minority rights, while unobjectionable in itself, cannot mean the denial of the same rights to so-called majority institutions in practice. This is tantamount to denial of equality before the law. And lastly, no religious right can be used to trample over individual human and civil rights that have to be available to all citizens regardless of the community they belong to.

The rights of Indians, including their individual and religious rights, are largely defined in these key articles of the Constitution: Article 14 (equality before law), Article 15 (prohibition of discrimination), Article 19 (free speech, and such like), with Articles 25-30 (religious and cultural freedom), apart from other stray provisions in many parts of the Constitution. While Article 19 guarantees citizens the right to 'freedom of speech and expression', Articles 25-30 take this further and guarantee 'freedom of conscience and free profession, practice and propagation of religion'. Articles 29 and 30 guarantee minorities the right to preserve their own culture, run their own religious and educational institutions, and non-discrimination.

However, despite a long enumeration of rights, religious or civil, in India these rights are severely constrained by the First Amendment to the Constitution brought forward by Jawaharlal Nehru himself. In contrast to the First Amendment to the US Constitution, which expanded the freedoms already guaranteed, India's First Amendment (in 1951) *curtailed* them and subjected freedom of speech to the arbitrary interpretations of local administrations. The US first amendment is simple and short – just 45 words. It says,

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the government for a redress of grievances.

The Indian First Amendment put ifs and buts to freedom. Among other things, the untrammelled right to free speech was constrained by eight limitations where the state could make laws to impose

reasonable restrictions on the exercise of the right...in the interests of the security of the State, friendly relations with foreign states, public order, decency or morality, or in relation to contempt of court, defamation or incitement to an offence.

Nehru, in his Statement of Objects and Reasons appended to the Constitution (First Amendment) Bill, 1951, which was enacted as the Constitution (First Amendment) Act, 1951, said that the courts were offering over-liberal interpretations of this right to free speech, claiming that

the citizen's right to freedom of speech and expression guaranteed by article 19(1)(a) has been held by some courts to be so comprehensive as not to render a person culpable even if he advocates murder and other crimes of violence.

It is not clear how eight limitations to this freedom were necessary to ensure that citizens do not use free speech to advocate violence and murder.

With terms like ‘security of the state’, ‘friendly relations with foreign state’, ‘public order’, and ‘decency or morality’ being poorly defined terms, it is possible to ban practically any literary or artistic work or critique of religion by even well-meaning citizens. The public order restraint has enabled states to ban literary and artistic works, with Tamil writer Perumal Murugan and Kamal Haasan, who wrote *Madhorubhagan* and produced the film *Vishwaroopam* respectively, having to make compromises to their artistic freedoms.

Far from curbing those who advocate murder and violence, it encourages precisely these kind of people. This is because those who want to get something banned or not allow a critic to speak can, by claiming hurt religious sentiments, or by indirectly or directly threatening violence and murder, give weak state administrations a reason to invoke ‘public order’ or other clauses in the amended Article 19 to comply with illiberal wish-lists. This is why a *Satanic Verses* gets banned, or beef becomes a cause célèbre. Trying to appease both sides in an argument, the weak state tends to both legislate a beef ban, and yet not implement the law it made to give the other side a reason to live with an unjust law. What does this do to the rule of law if a law is made just to satisfy one group and not implemented to satisfy another? It sends the message that any group will gain the upper hand, and the individual who demands his basic rights to free speech will be short-changed and not given protection.

Therefore, Article 19 clearly needs to be amended, and states be forced to change their illiberal laws, by dropping at least four or five of the restrictions on free speech.

The next issue relates to Article 25, which directly talks of freedom of religion. The article guarantees to all citizens ‘freedom of conscience and free profession, practice and propagation of religion’ but the fact is several states have laws that make religious conversions difficult, curtailing the right to propagate religion. At least seven Indian states - Odisha, Madhya Pradesh, Chhattisgarh, Gujarat, Arunachal Pradesh, Rajasthan and Himachal Pradesh - have laws that regulate religious conversions by force, inducement or fraud, with some - MP and Chhattisgarh - requiring

potential converts to give the state administration one month's notice before converting or face fines and penalties.

While it is doubtful if any genuine conversion has really been prevented due to the existence of these 'anti-conversion laws' (that are usually labelled Freedom of Religion Acts), the fact remains that these laws can become weapons in the hands of conservative groups and political parties to persecute the minorities or to deny them constitutional benefits like reservations in educational institutions or government jobs. Of course, one can also disagree with the idea of quotas in general, but as long as these are on the statute book, using religion to deny benefits to the poor who may otherwise qualify would be unfair and illiberal. These laws clearly need to be scrapped or amended to reflect the right to freedom guaranteed in the constitution.

One reason offered for the existence of these laws is that since Hindus do not actively proselytise, they need anti-conversion laws as defence. But a secular state cannot be invested in the defence of one religion, whatever be its internal strengths or weaknesses. In fact, given the flak received by the *ghar wapsi*—reverse conversion—programmes of some Hindu organisations like the Rashtriya Swayamsevak Sangh and Vishva Hindu Parishad, one wonders how anti-conversion laws make any sense at all even from a Hinduism propagation perspective.

Article 25 clearly needs to be strengthened to outlaw anti-conversion laws, and action against conversions should be limited to force or fraud. Inducements, real or spiritual, cannot be grounds for preventing conversions in a liberal society. After all, every religion promises something that the potential convert values—whether it is a place in heaven or earthly peace or contentment—and every adult should be considered to be the best judge of his own interests in whether he is getting what he is seeking from any religion, even if these inducements include material things. When politicians can promise freebies, it makes no sense to argue that religious propagandists cannot do the same. Laws are needed only to prevent fraud or force, but these can be dealt with under the Indian Penal Code too.

Another issue relates to the political focus on community rights rather than individual rights, which results in the continued oppression of women. The Shah Bano verdict⁹ and its aftermath, where a progressive judicial order allowing a Muslim woman to maintenance after divorce was reversed by Parliament under pressure from conservative elements among some Muslim groups, is a case in point. Though subsequent judgments have restored the rights of divorced Muslim women to some form of support, the point is this: if personal laws are held to be above a common understanding of fundamental human rights as specified in the Constitution (including women's rights as citizens), clearly minority rights are being hijacked by vested interests, including patriarchal and regressive forces.

At the time of writing, the All India Muslim Personal Law Board was telling the Supreme Court that it had no right to ban triple *talaq*, as it was a personal law. The court could not intervene in personal matters, it argued, though this is manifestly false. The rights of women to contest a divorce or to get maintenance in the event of divorce cannot be termed a personal law which the courts cannot intervene in.

It is interesting to note in this context that a uniform civil code (UCC), which would protect the rights of all citizens and subject them to a common law in some matters, is being opposed precisely on grounds of minority rights. The Supreme Court has repeatedly emphasised the need for a UCC, but the politics of minority-ism prevails. A uniform civil code is a useful expansion of freedom and the rule of law. It protects the minority within a minority from the illiberal views of dominant voices within a community or group, whether of religion or caste.

What this suggests is that, unlike the west, in India the state plays an intrusive role in favour of or against religions. For example, several southern states have ministries running Hindu religious endowments and temples. The central government offers a Haj subsidy for Muslims who want to visit Mecca for religious reasons. The Andhra Pradesh government directly appoints its own nominees—usually those affiliated to the party in power—as the main administrators of the Tirumala

Tirupati Devasthanams (TTD), the richest Hindu temple in India. The Supreme Court has been intervening in Thiruvananthapuram's Padmanabhaswamy temple dispute, ostensibly to protect its considerable riches valued at over ₹1,00,000 crore, according to some estimates,¹⁰ but it is not clear it would do the same if a church or mosque were endowed with similar wealth.

The Tamil Nadu government was only recently forced to relinquish management of the Chidambaram temple (*Subramanian Swamy v. State of Tamil Nadu*),¹¹ and that too only after a prolonged fight in courts. But the state runs a whole raft of temples when it is no business of the state. According to one report, 'Tamil Nadu's Hindu Religious & Charity Endowments (HR&CE) department controls 36,425 temples; 56 mutts; 47 temples belonging to mutts; and 1,721 specific endowments and 189 trusts.'¹² This amounts to a massive encroachment by the state in religious matters, and there are many states that do the same thing. In Karnataka, the ministry looking after Hindu temples was found to be using the money to help pay the Haj subsidy!¹³

Is it any job of the secular state to run the finances or other affairs of religious institutions? Or cross-subsidise the religious activities of one community with resources raised from another?

It is this tendency of the state to consider Hindu religious institutions as part of the state's duties, but not minority institutions, that defeats the whole purpose of Articles 29 and 30, which guarantee the rights of minorities to run their own institutions. This right has been inverted to mean that majority institutions are fair game for politicians and the state to meddle with, forcing more and more institutions to claim minority status.

Since the Supreme Court has said that the state is the geographical unit within which religious minorities can exercise their freedoms under Article 30, it would have the perverse effect where, hypothetically, a Hindu temple in, say, Nagaland (which has a Christian majority) would be free to run itself without interference, but not if the same temple were set up in Andhra Pradesh, where the TTD is located.

Thanks to this incongruity, the Ramakrishna Mission tried unsuccessfully telling the Supreme Court that it was a minority institution in order to escape interference by the Left Front government in its administration in the 1980s. However, the court sensibly declined to oblige.

The problem possibly lies in the way Articles 25-30 of the Constitution are constructed. Article 26 guarantees every religious denomination or any section thereof the right to “manage religious affairs”, and states,

Subject to public order, morality and health, every religious denomination or any section thereof shall have the right -

- a. to establish and maintain institutions for religious and charitable purposes;
- b. to manage its own affairs in matters of religion;
- c. to own and acquire movable and immovable property; and
- d. to administer such property in accordance with law.

Article 30, on the other hand, separately promises that all minorities, ‘whether based on religion or language, shall have the right to establish and administer educational institutions of their choice.’

While Article 26 talks only of religious institutions, Article 30 talks of education institutions run by religious minorities. Article 26 promises equality for all religious institutions, but does not specifically make an explicit promise to non-minorities of religion or language. This anomaly has clearly emboldened politicians and the state to treat minority institutions with kid gloves, but not majority institutions.

Since many religious institutions also run schools and colleges, this anomaly needs to be corrected. Article 30 can be abolished and Article 26 expanded to include educational and health institutions run by religious denominations. Laws to protect minorities should include an additional clause to say that nothing in this clause shall be construed to mean that the same rights are not available to majorities in language or religion.

The courts, unfortunately, have added to the confusion by treating minority institutions as a separate category and entitled to special treatment.

A case in point is the Right to Education Act (RTE), which was upheld by the Supreme court in 2012. The Act forces schools to offer a 25 percent quota of seats to the poor, but excludes minority unaided institutions from its mandate. It used the guarantees given under Article 30 to justify the special exemption from the RTE for minority institutions.

While the RTE Act itself has many good reasons to be challenged on grounds of constitutionality, even assuming we have to live with it, this exclusion of minority institutions violates the principle of equal treatment under the law. Even the courts seem to pander to minority-ism.

The courts also give extra emphasis to religious law while administering the Indian Constitution. A case in point is the Supreme Court judgment in 2012 asking the government to phase out the Haj subsidy. In doing so, the court used a line from the Koran to justify this decision. The Koran is said to proclaim the following: “And Haj (pilgrimage to Makkah) to the House (Ka’bah) is a duty that mankind owes to Allah, those who can afford the expenses (for one’s conveyance, provision and residence).”

The point is, the Haj, which involves state funding of a religious activity, is unconstitutional in a secular state. Quoting from scripture to uphold the Indian Constitution is plain wrong, and opens the door for more religious ideas flowing into court verdicts. The court’s only job is to interpret its own holy book, the Indian Constitution, not the Koran, the Bible or the Gita. It should leave those things to the *ulema*, priests, and spiritual gurus.

The big question is this: why is religion intrinsically mixed up in a secular state? Why is the state so keen to placate religious authority, but less sure about protecting individual rights?

A key reason is the Indian state’s failure to provide public goods priority over the provision of private goods to voters.

A public good is that whose consumption by one does not deny someone else the right to consume the same. For example, if we have good policing, it benefits all even though at any point only some people may need it. But if we provide subsidised diesel, its consumption by one means someone else getting less, or the state having fewer resources to do other important things, including the provision of public goods that expand freedoms.

To find an answer, we have to look at the kind of incentives and penalties provided by our first-past-the-post electoral system. We cannot change it easily, but when legislative majorities can be won on a minority of votes (30-35 percent is enough for a parliamentary or legislative majority for most parties in many multi-party states), the wooing of small numbers through religious or caste giveaways becomes the norm.

The fact is individual liberty can only be protected if the state provides protection through a fair and efficient policing and justice system, but these are public goods that benefit everybody and are not enough to woo small segments of the electorate. As economist Ajay Shah points out,

Today in India, winning elections does not require pleasing all voters; it only requires a base of 30 percent of the voters. This gives politicians a greater incentive to dole out goodies for the 30 percent and not work on public goods that please all voters. This reduces the prioritisation for public goods.¹⁴

Without an emphasis on public goods like law and order, our freedoms cannot be protected.

On the other hand, garnering a chunk of the communal or caste vote involves pandering to their fears or prejudices and offering freebies. This strengthens vociferous segments in some communities while stifling the saner voices that seek public goods that benefit all. Politicians also like a captive police and law enforcement machinery, which makes it easier for them to dole out favours to rabble rousers and violent elements by promising them protection *from* the law instead using the law to protect the ordinary citizen.

Clearly, police reform, mandated by the Supreme Court, is critical to the protection of individual rights as a politically-captive police and legal system is incapable of guaranteeing the rights of citizens. Police and legal system reform, changes in constitutional provisions on free speech and protection of minority rights, and a specific separation of state from investing in religious activities are vital to expanding the freedoms of citizens in India.

India, currently, is not a secular state in any sense of the term. It is intensely involved with religious groups and institutions, making them subservient to political imperatives, and subversive of the rule of law.

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Political and Economic Freedom: Are they compatible?

ASHOK V DESAI

An answer was given in 1962 by Milton Friedman to the question posed in this essay. In his book, *Capitalism and Freedom*, he wrote at the outset,

It is widely believed that politics and economics are separate and largely unconnected; that individual freedom is a political problem and material welfare an economic problem; and that any kind of political arrangements can be combined with any kind of economic arrangements. The chief contemporary manifestation of this idea is the advocacy of “democratic socialism” by many who condemn out of hand the restrictions on individual freedom imposed by “totalitarian socialism” in Russia, and who are persuaded that it is possible for a country to adopt the essential features of Russian economic arrangements and yet to ensure individual freedom through political arrangements. The thesis of this chapter is that such a view is a delusion, that there is an intimate connection between economics and politics, that only certain combinations of political and economic arrangements are possible, and that in particular, a society which is socialist cannot also be democratic, in the sense of guaranteeing individual freedom.¹

He meant to take issue with European socialists, who believed that the constraints they believed in imposing on economic freedom were consistent with parliamentary democracy. According to him,

[T]he groups in our society that have the most at stake in the preservation and strengthening of competitive capitalism are those minority groups which can most easily become the object of the distrust and enmity of the majority: the Negroes, the Jews, the foreign-born, to mention only the most obvious. Yet, paradoxically enough, the enemies of the free market the Socialists and Communists have been recruited in disproportionate measure from these groups. Instead of recognizing that the existence of the market has protected them from the attitudes of their fellow countrymen, they mistakenly attribute the residual discrimination to the market.²

We find a parallel in India. Although India is constitutionally a secular country, there are many Hindus who harbour a prejudice against Muslims. The proportion of Muslims in government, especially in the police, is much lower than in the general population. Conversely, their presence in competitive markets – crafts, small industry and petty commerce – is more than proportional.³ There is no reason to think that Hindus operating in these markets are less prejudiced. But competition drives them towards minimising costs, making profits and avoiding losses; these are the markets in which Muslims can operate if their costs are lower.

Majority rule has not been kind to minorities. The Muslims have regressed. There were many other minorities under British rule; for instance, Parsis, Jews and Armenians. They were predominantly in commerce then; after independence, most of them emigrated. General Jacob Farj Rafael Jacob won a great battle against Pakistani forces in the Indo-Pakistan war of 1971. A Jew, he died recently in Delhi. He was exceptional. Now, there are only a handful of Jews left in India; most have migrated to Israel. Parsis did not have a country to migrate to, but a large proportion of them have migrated to Anglophone countries.

The proportion of women in government is also low. They too cannot migrate; they are restrained by family ties. Hence, they do not resort to business, but they are more than proportionally represented in informal and unskilled jobs such as in agriculture and construction.

We can see this mechanism operate across countries as well. Open unemployment is higher in many industrial countries than in India. It is not because the demand for labour in India is greater relatively to supply. It is because those in need can work in informal markets in India. Those markets have become formalised in western countries; employers' practices or trade union strength make it difficult for casual workers to enter them. They have stronger and more effective governments, and in many countries, governments have passed laws favouring trade unions. They have 'regulated' or manipulated labour markets, and reduced the scope for competition.

If markets have an advantage, why have they not conquered the political field? Politics involves choices between options. One way would be to let people choose alternatives. But that would lead to chaos in many fields. For instance, if people were allowed to choose the rate at which they are taxed, everyone would choose zero. If they were allowed to choose the court of justice, they would look for judges who would favour them. Political rules have to apply to everyone whether he likes them or not; they have to be forced on people if necessary. In the circumstances, it makes sense to make rules that are most widely accepted – that is, which get the highest proportion of votes. But it would be cumbersome to consult the entire population on every question. Hence the practice arose of letting people choose a set of representatives who can meet, discuss, and argue, and basing choices on the representatives' votes.

That was much before the invention of electronic communication. Today, it would be feasible to give every citizen an internet connection and letting her vote. In other words, we are approaching a state in which many more political issues could be settled by referendum and fewer of them would have to go to legislatures. Technology enables us to go back to the system in Athens in the fourth century BC, where all adult males could come to the town centre and vote; we could let the entire population or any part of it vote.

While referendums would take us closer to democracy, some other features of the political system would have to change to make it more effective. Law

is the kernel of rights and obligations; for political freedom, it is necessary that law should be comprehensible to people not educated in law. Indian law is not. For one thing, it is so complicated that few common people would understand it, and even those who do have to take the assistance of a state-ordained oligopoly, the legal profession, to have access to law. Law does not have to be complicated. Indian law is complicated for a number of reasons.

First, it originated in laws made by the British in India, and the British have traditionally complicated law because it is based on precedent, and their precedents go back to Magna Carta, the charter given by King John in 1215 to assure his barons that he would not lock them up or tax them without reason: precedents accumulated over 800 years would build up to a pretty baroque structure of law. Indian law has not had so long to grow, since the British parliament codified all laws of East India Company when it renewed the Company's charter in 1833. That was when slavery was abolished in India, and this minimum requisite of political freedom was laid down. French law, which begins from the Declaration of Rights of Man after the revolution of 1789, is much clearer; also, the French follow the practice that the parliament simply lays down the principles in the laws it passes, and the administrative details emerge from subsequent judgments of courts. This practice is followed in most West European countries. Britain itself appointed a Law Commission in 1965; it goes on producing report upon report suggesting simplification of laws. Recently, for instance, it suggested repeal of 200 acts, including Red Sea and Indian Junction Telegraph Act of 1857.

Second, Indian law is poorly written. The government pays its servants poorly; so it cannot engage competent lawyers to draft law. It tends to be prolix and unclear, and often does not include provisions to repeal or amend relevant previous legislation. We need to organise an urgent project to rewrite Indian law; it should be transparent enough for laymen to see what is being done and comment on it if they want.

Common man's access to law is part of political freedom; though not directly related to it, it can have important effects on economic freedom.

The last UPA government set up the Financial Sector Legislative Reforms Commission in 2011. It completed its work in two years flat; it took all important financial legislation and produced a single law to integrate and simplify it.⁴ The government has been sitting on it for more than two years now.

An equally important part of economic freedom is access to capital. It is extremely unequal between the rich and the poor; if it were more equal, at least some of the poor would prosper and join the ranks of the rich. Banks prefer to lend to the rich or to firms owned by them. The reason they would give is that it is less risky to lend to the rich: the rich can pledge their assets and give security, which the poor cannot. But the rich invest in the equity of companies run by the rich; there they insist on neither security nor returns. They take a bet, well informed sometimes, and a blind gamble at other times.

Why do they not wager their money on poor entrepreneurs? It is because they have no information on how good the poor would be as businessmen. They usually have better information on companies floated by the rich because the promoters have a track record that would have been followed by the media; there is no one who follows the track record of trash collectors or electricians.

This does not happen for two reasons. First, there are banks to give fixed-interest loans; there are no institutions to invest in equity. Or, to be more precise, there are such institutions, but they are huge institutions that handle funds of big investors like investment banks and mutual funds, to lend to large enterprises. It is perfectly possible to conceive of such institutions that would invest in small companies and start-ups, but they are absent. The capital market is a cartel. This is entirely a historical accident. Lending institutions are many centuries old; there were banks in Geneva and Venice a thousand years ago that financed the import of textiles and spices from India through the Ottoman Empire. Equivalent institutions for equity—venture capital funds and angel investors – were invented in the United States just after World War II; they look for young, energetic entrepreneurs with an idea. Microfinance institutions have a

longer history. Friedrich Wilhelm Raiffeisen created a cooperative credit union in Germany in 1847; today, there are Raiffeisen banks in most East European countries and in Austria.

In India too, microfinance institutions have come up, but government suspicion and hostility have crippled them. The government is hostile for three reasons. First, such institutions are new, and the government is wary of financial innovation. Second, the government owns banks, and discourages competition to them. And third, it is suspicious of small people who want to raise equity: it assumes that they are fraudsters. It is perfectly possible to scale down equity finance corporations; they can be as solid as banks with a certain degree of regulation. Even conventional banks could invest in equity just as they give loans, with similar procedures to vet the trustworthiness of promoters; and they could take money from depositors explicitly to invest in equity just as they take deposits to give out as loans. But to reach really small entrepreneurs, we would need many small investment institutions, including banks; and they cannot emerge unless the entire regulatory stance of the government changes. A poor man cannot read or understand the 470 sections of the Companies Act or 74 sections of the Indian Partnership Act, both of which are perfect examples of the Indian penchant for complication. The government claims to encourage small enterprise, but is extremely unfriendly to small finance, whose absence limits the growth of small enterprise.

It is, in theory, extremely friendly to the poor: it spends a significant proportion of its expenditure on programmes ostensibly meant to subsidise the poor. But it wants to prevent the subsidies from going to the non-poor. So it has divided the population into poor and non-poor. In the first exercise, it decided that the poor were those who did not get enough calories – 2100 calories a day in towns and 2400 in villages. From one of its sample surveys, it worked out that to get that many calories, the poor had to spend ₹57 a month per head in towns and ₹49 in villages in 1973-74. Then it multiplied these figures by an index of inflation for goods consumed by the poor to get the minimum required expenditure for later years. But then it was discovered that there were many who spent more than the calculated minimum amounts but ate fewer calories

than the 2100 or 2400 that were considered minimum requirements. The proportion of poor in terms of those who spent too little halved from 56 percent in 1973-74 to 28 percent in 2004-05; but the proportion of those who did not eat enough went up from 65 percent in 1983 to 76 percent in 2004-05. Why? A government committee gave the following answer: the rich cut down calorie consumption because they went on to less calorie-intensive but more tasty foods and to non-food luxuries; the poor cut down calorie consumption because they starved even more than before.⁵ How did the committee know? It just knew.

After that, the criteria for defining the poor became even more complicated and multifarious. The details are not relevant here. What matters is that the identification of the poor on the basis of the criteria was done by lowest-level elected persons—*gram pradhans*—or officials or both. To be classified as poor, a man or woman had to convince these petty politicians. The socialist state in India is a modern version of the feudal state. Under feudalism, the poor were bonded labourers of the rich. They are no longer bonded workers; but if they are loyal to the politically powerful, they can get substantial material benefits. If they free themselves from the rich, they stay poor. Feudalism has given place to paternalism.

I would not draw the inference that the state should do nothing for the poor. A state is necessary even to protect the liberties that we value. It has to be financed; while it may get a certain income from issue of money, that cannot be sufficient. Hence there has to be taxation. States require so much revenue that it cannot be collected from poll taxes, or Tobin tax; there is no getting away from taxes related to paying capacity – income tax and wealth tax. If those with high paying capacity are taxed, the same argument can be used to justify subsidy for those with low earning capacity. No one would argue against subsidies to widows, orphans, or disabled people. If we admit these as deserving cases, we have to look for a general principle on who is deserving and who is not; and it will have to encompass income or earning capacity.

I would suggest that the same machinery that is used to tax people directly, on income and assets, should also be used to subsidise people

with inadequate income and assets by means of a negative income tax. It must replace all the conditional subsidies that are meant for the poor. Some people will be alarmed by the burden an income subsidy would place on the Directorate General of Income Tax. The burden arises from two factors. One is the number of assesseees, which would go up from 35 million at present to 10 or 15 times as many. If income tax returns were computerised, this would become a soluble technical problem. A country that is thinking of *Aadhar* cards and bank accounts for everyone can hardly balk at universal income tax. The other burden relates to compliance. If a poor man does not submit an income tax return, he will not get a subsidy. The government should hardly worry about that. We can rely on the incentive of subsidy to work for compliance. The income subsidy must replace the many conditional subsidies governments are giving to defined groups; that should also result in some economy. It must be completely unconditional: it must not impinge on the receiver's economic freedom.

But the most important step the government can take is to give the poor a better chance to become rich by giving them access to capital; and the way to do so is not to set up special government financial institutions to lend to the poor, but to permit competition in the capital market. When one thinks of capital for the poor, one immediately thinks of microfinance institutions, because they have been tried out in many countries and worked in some. What we need to think of is equity investors for the poor.

An example of such investor is the village moneylender. The moneylender earned a bad name in the late nineteenth century: many farmers who had borrowed from moneylenders killed themselves when the rains failed and they could not repay loans. The British Indian government legislated against them, and made their lives miserable. Today, they survive, but do not call themselves moneylenders. They are usually traders, stocks and shopkeepers who give credit to their clients. They are known to charge high interest rates. But these are not really interest rates; they are shares of profit. If a peddler who buys peanuts, roasts them and sells them makes a few hundred percent in a few days; someone who lends money to him for the peanuts will expect to double his money. That sounds like financial torture, but is actually profit sharing. These informal venture capitalists

need to be given economic space. The transactions between them and their investors will raise issues of fairness, and may need to be regulated. But the regulation should not be in the normal Indian mode of verbose overregulation, and it should not start with a prejudice against the investor, as it did against the moneylender. The government legislated liberally and randomly on the large-scale capital market. Then it realised what a mess it had created, and set up the Justice Srikrishna Commission to clear it. The Commission went through the reams of laws and drafted a crisp, clear code to replace it.⁶ Now the government has been sitting on the code for two years. It should not go through the same time-consuming rigmarole with regard to micro-equity; it should start with a minimal, objective-driven code, and leave the market to develop without undue interference.

We have had political freedom for decades, but we are far from economic freedom that would allow the poor to venture out, innovate and get rich. This is not because economic freedom is incompatible with political freedom. It is because we have been so entranced by the ideal of political freedom that we have not given much thought to economic freedom. Institutions to give concrete shape to political freedom are widespread; we also have much thinking on how to shape and repair them. But we have not even begun to shape institutions to give economic freedom to the poor. Early work on liberty gave much space to the effects of trade unionism. But that is now outdated; trade unions have faded away even in many industrial nations. Labour mobility and choice of occupation are an important part of economic freedom; but we are still stuck in the implicit identity of the poor and wage-earners. This is a legacy of the industrial world. The developing world – India in particular – has had large numbers of poor businessmen—though they are never called that. Expanding their freedom has never been given much thought. Now is the time to do so.

NOTES AND REFERENCES

- ¹ Milton Friedman, *Capitalism and Freedom* (Chicago: University of Chicago Press, 1962): 1.
- ² Ibid.
- ³ Report of the *Prime Minister's High Level Committee on Social, Economic and Educational Status of the Muslim Community of India* (Government of India: November, 2006): 1-7. http://mhrd.gov.in/sites/upload_files/mhrd/files/sachar_comm.pdf.
- ⁴ Report of the *Financial Sector Legislative Reforms Commission* (Government of India: 2013). http://finmin.nic.in/fslrc/fslrc_report_vol1.pdf.
- ⁵ Report of the *Expert Group to Advise the Ministry of Rural Development on the Methodology for Conducting the Below Poverty Line (BPL) Census for 11th Five Year Plan* (Government of India: 2009): 8-9. <http://rural.nic.in/sites/downloads/circular/ReportofExpertGroupChaired-Dr.N.C.Saxena.pdf>.
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Liberty and Locus of Power

JAYAPRAKASH NARAYAN

Limited government and local decision-making are among the cardinal principles of a liberal society and state. Whatever be the role assigned to government, if such role and power are dispersed in multiple authorities at different levels, liberty is safe. Horizontal and vertical decentralisation protects liberty, as opposed to a centralised, totalitarian system with a single locus of power. Local decision making gives citizens greater control over their lives and allows effective participation in democracy and governance.

Clash of Visions

And yet our Constitution and state structure have created a highly centralised, largely ineffective governance process that neither disperses power, nor allows people's participation. Indian Constitution is a remarkably humane, liberal document. However, there was a clash between Mahatma Gandhi's vision of limited, decentralised government with people gaining a significant measure of control over their lives, and Dr. Ambedkar's concerns about transferring power to the *panchayats* that were 'dens of casteism and corruption'. Both had strength in their arguments. Gandhiji's fierce antipathy to centralisation and state control were at the heart of his opposition to colonial rule. Ambedkar's aversion to the hierarchical, caste-ridden society that institutionalised inequality by birth, and therefore the fear that the local elites would monopolise power and perpetuate caste rigidities at the village level, were fully justified.

The failure of our nation-builders to reconcile the diametrically opposing views of Gandhiji and Ambedkar has proved very costly for the evolution

of Indian state. Gandhiji had a romantic notion of a village as an idyllic, self-governing, self-reliant little republic. While the Mahatma fought caste discrimination and institutionalised cruelty of our tradition all his life, he naively believed that moral persuasion alone would somehow transform the hearts of men bound to centuries of tradition and self-serving cruel practices. While Ambedkar recognised the dangers of building state-power around the tradition-bound iniquitous village structure, he failed to recognise that power vested in larger local units – for instance, a county or block or *mandal* as a cluster of several villages – would actually help weaken the entrenched caste hierarchies in a system of universal franchise. In a traditional village, each caste group lives in isolation and accepts the hierarchies and institutionalised inequalities with little resistance. But if a cluster of several villages becomes the primary unit for organising the state, and resources and power are transferred to such a unit, universal franchise would weaken tradition, and the poor and marginalised would find voice and gain more and more control over their lives. The incapacity of the Constituent Assembly to arrive at such a synthesis created a strong union and substantially empowered yet vulnerable state governments. Local governments were not made a part of the constitutional structure of Indian state, and they were relegated to the Directive Principles of State Policy along with many other homilies and shibboleths.

History of Local Governance in India

This neglect of local governments was an extraordinary omission, given the impressive record of Indian society managing most of the affairs locally throughout our long history. Over 5000 years ago, the Indus valley civilisation was home to organised urban life – wide streets, market places, public offices, community baths, drainage and sewerage system. We have no definitive proof of the governance system in the vast, ancient Indus valley (Mature Harappan) civilisation, since the Harappan script has not been deciphered yet. However, available evidence and the vast geographic spread indicate that each Harappan city was a self-governing city-state with local decision making. During the Vedic age too, local governance was the norm. The early Vedic age, 3500 years ago, saw political organisation around tribes rather than kingdoms, and therefore

governance was essentially local and centred around the community. Even in the later Vedic age, small kingdoms, not large empires, were the norm. Around the period of Gautama Buddha and Lord Mahavira, Lichchavi republic epitomised a system of local government and a confederacy of all local tribes was organised on the principle of equality. Other confederations—Videhan republic, Vajjian republic and the reference to the sixteen Maha-Janapadas in ancient texts (Anguttara Nikaya and Bhagavati Sutra)—indicate organisation of self-governing local institutions coming together as confederations of equals. From the Mauryan empire 2300 years ago to the Mughal empire (1526-1707 AD), for nearly two millennia, villages had largely their own governing structure, and cities had varied structures with appointed officials, a town council, and even provisions for elected administrative officers.

Local governance reached remarkable heights during the Chola Period in South India. The Uttaramerur inscription, dated around 920AD, is a testament to a highly refined electoral system and local governance through a written constitution about 1100 years ago. As Dr. R. Nagaswamy, author of *Uttaramerur, the Historic village of Tamil Nadu*, points out that the Uttaramerur inscription gives astonishing details about the constitution of wards, the qualification of candidates for elective office, the disqualification norms, the mode of election, the constitution of elected committees, the functions of these committees, the power to remove wrong doers, and other specific details. The inscription shows that while the village was a part of a large monarchy, the village constitution was adopted and implemented by the village assembly with royal encouragement. The detailed constitution for governance of Uttaramerur makes a thrilling reading, and stands as an extraordinary proof of effective local governance and people's participation even in a strong and powerful monarchy nearly eleven centuries ago.

Even during colonial rule in British India, local governance was given considerable importance. Corporation of Madras, established in 1688, is the oldest municipal body in the Commonwealth of Nations outside Britain. In 1720, a royal charter was issued for establishing a mayor's court in each of the three presidency towns of Madras, Bombay and Calcutta. With Lord Mayo's resolution in 1870, municipalities were established in

all important towns, though they were completely under the control of officials. Lord Ripon's resolution in 1882 advocated a network of local self-government institutions constituted by elections. But real breakthrough came with the Government of India Act, 1919 when the responsibility for local government was transferred to a department controlled by a popular minister, franchise for election to local bodies was substantially widened, municipal bodies were given power to determine tax rates, and elected councils were established, and elected chairman was given executive authority.

In 1924, many prominent Indian freedom fighters were elected Mayors of local governments: Chittaranjan Das in Calcutta, Vallabhbhai Patel in Ahmedabad, Rajendra Prasad in Patna, and Jawaharlal Nehru in Allahabad. Chittaranjan Das appointed young Subhash Chandra Bose as the Chief Executive Officer of Calcutta Corporation, instead of meekly accepting a career civil servant appointed by the colonial government. Bose, in a few months, acquired a formidable reputation for his competence. In October, 1924, Bose was unfairly jailed on false grounds for his alleged support for the revolutionaries. Even while Bose was in Alipore jail in Calcutta, on Das's insistence, the British government allowed him to function as the CEO of the corporation from jail. Files were circulated to him, officials, corporators, and Mayor met him, and Bose issued orders and ran the city – all from inside the Alipore jail! This practice continued until Bose was shifted to Mandalay Jail in Burma. This extraordinary episode illustrates the wide-ranging powers and autonomy enjoyed by elected local governments during the colonial rule.

Given this remarkable history of local governments in India's long history, the high degree of centralisation in post-independence era is an aberration. For all appearances, we are a robust functioning democracy. Judging by Myron Weiner's four criteria for a functioning democracy—competitive elections, political freedoms, absence of vendetta and retribution against those who lose elections, and elected governments effectively exercising authority—India is undoubtedly a highly successful functioning democracy. A largely poor and illiterate society fragmented by many primordial loyalties and divisions of caste, region, religion, and

language audaciously adopted democracy and universal franchise. Few observers believed India would succeed as a democracy. That we could stay together as a united nation, preserve liberty and human rights, and achieve modest economic progress is a remarkable tribute to our society, Constitution, and the efforts of freedom fighters and early leadership to internalise democratic institutions and practices.

Roots of Crisis

However, neglect of local governance in the Constitution and failure to create effective, sustained, empowered local institutions over the past 65 years has had profound negative consequences on the evolution of our democracy. Many practitioners, scholars and eminent citizens have observed that while democracy is broader than ever before, it has still not struck deep roots, and citizens continue to be marginalised. A deeper examination of our democratic evolution is necessary to understand the causes and consequences of our failings. India daringly adopted universal franchise in the face of three major obstacles to democracy. First, our poverty and illiteracy made people insular, fearful, and highly prone to seeking support in caste or religious groups. Second, there was no notion of citizenship or understanding of vote and self-governance. Given the colonial history, the government was seen as *mai-baap*, and people were helpless in the face of the might of state power. This notion of omnipotent government was reinforced by the license-permit-quota raj adopted for over four decades. This oppressive government control, make-believe socialism, and curbs on economic freedom at every stage made the citizens mendicants. Third, in a poor country with colonial baggage, service delivery by lower bureaucracy was always defective. Given abject poverty of the bulk of citizens, even a low level government functionary was far more economically secure, powerful and influential than most of the people whom he was supposed to serve. This asymmetry of power made public servant all-powerful and allowed ruthless exploitation of the citizens' helplessness, and created a vicious cycle of corruption.

In the face of these three initial conditions – mass poverty and illiteracy, absence of notion of citizenship, and oppressive bureaucratic power and

poor service delivery – we instituted elected governments at the Union and state levels. The people suddenly realised that, for reasons not entirely clear to them, their vote determined who would be the next *rajah* in Delhi or the state capital. Notions of probity, governance, role of state, functions of various levels of government or its agencies are alien to most voters. All they know is that they have, at last, one weapon called vote which is their only lever for getting things done. Given the abysmal service delivery – water supply, street lighting, local road, land record, ration card, electrical connection, house building permission, patient-care in a hospital, registration of a complaint in a police station – voters approached the elected legislator, who depended on their vote to get elected. The elected legislators and governments should have focused on improving service delivery and accountability of bureaucracy, and strengthening and empowering local governments to meet most of the local needs of people. Such a course would have allowed local leadership to develop, and improved service delivery under the watchful eye of the voters who would clearly understand the link between their vote, the quality of leaders elected, and the delivery of services at local level. This would have enabled people to understand the value of the vote, unleashed people's energies, created training opportunities for leaders, promoted quality leadership, and firmly established in public mind the link between their vote and public good. It would also have made people aware that government is not an omnipotent god with all answers to their problems and unlimited resources, but it is an institution they created to fulfil their common needs with the taxes they paid. This would have made voters aware of the role of the state and the link between the taxes they pay and the services they get. Most of all, locally elected, empowered leaders would have the power to deliver, and would have been accountable to the people who elected them. The local government leaders would be accessible to people, live in their midst, and would be their peers and equals, not some distant, remote, inaccessible, mighty rulers functioning mysteriously. In turn, the local government leaders would exercise effective control over local bureaucracy and enforce accountability.

By centralising powers at national and state levels, and by not allowing effective local governments to strike deep roots, India lost on all these

counts. There is no link between vote and public good in citizens' mind, people have no understanding of the taxes they pay and the services that can be legitimately expected in return, and there is no accountability at any level. As a result, we have created an electoral democracy sans accountability and delivery. An opaque, centralised system of alibis has come into existence in which every functionary can evade responsibility and pass the buck. In such centralisation, only a few—the Prime Minister, Chief Minister, and district magistrate—are seen to be powerful. But even they could not deliver in a system of diffused accountability.

Disguised Executive

In this climate, the elected legislator and voter responded to the emerging democratic and governance crises in the best way they could. The legislators, instead of insisting on creation of empowered local governments and holding them to account, preferred to directly address public grievances without any legitimate executive power. In order to satisfy the voters, they needed to create a vast, parallel, informal political machine to receive people's complaints, approach local bureaucracy, mediate between people and government, peddle influence, and get at least some things done. But this approach had three drawbacks: one, instead of holding the bureaucracy accountable, it became subservient to it; two, even with the best efforts of a vast, informal political machine, the delivery was sporadic and insufficient, leading to general inefficiency and growing public discontent; and three, the vast, informal political machine needed money to sustain it, and therefore corruption became necessary to sustain electoral politics.

The growing dissatisfaction of the people meant that come next election, people need to be enticed to vote for them. Popular enthusiasm for democratic process was progressively replaced by clientalism and cynicism. Therefore, given the abject poverty of most voters, vote became a purchasable commodity, and vote buying has become rampant. As all major candidates for elective office competed for vote buying in a winner-takes-all first-past-the-post system, cost of elections went up dramatically. The public spirited, honourable leaders who fought for freedom and built democratic institutions were progressively eased out, and politics became a

commercial business in most cases, with all the attendant evils of abuse of state power and ubiquitous corruption. As all parties spent lavishly to buy votes, more was needed to gain the vote. A culture of offering short term freebies—free electricity, loan waiver, television sets, bicycles, grinders, free rice – have now become endemic. The basic functions of government have been largely neglected, and only individual inducements have become the staple of politics. As all parties have joined this race for competitive populism, other techniques of vote mobilisation were needed. In a poor, diverse, tradition bound society with primordial loyalties it is easy to play one group against the other, polarise votes and reap political dividends. All these three unseemly features – vote buying, competitive populism and sectarian polarisation – have now become integral to our electoral politics.

Bureaucrat-Legislator Nexus

It would be an exaggeration to say that strong local governance would be an instant panacea to all our problems. It is a fact that the 73rd and 74th Amendments to the Constitution have largely failed. Phenomenal vote buying, abuse of office, extortion, and corruption have become equally entrenched in local governance. Where local communities are given voice, as in public hearings for environmental clearance, there are often serious allegations of rabble-rousing and extortion. The local elected politicians have fully imbibed the prevailing political culture. In this backdrop, is it wise to trust local governance? This is a question that agitates the minds of many well-meaning, public-spirited, serious thinkers and practitioners in politics, public administration, civil society, and academia. But the realistic solutions to our problems come only from greater alignment of voters with their government, greater linkage between taxes and services, and greater fusion of authority with accountability. Local government is the only institution where all these three objectives can be accomplished in our democracy. The authoritarian option of a philosopher-king giving us wise and good governance and people accepting such a ruler unquestioningly is not available to us, nor is it desirable. There is no guarantee that a true philosopher-king would emerge as the unquestioned leader; there is little evidence to suggest that the king will remain a philosopher once he tasted absolute power; and there is little chance of our fractious, diverse,

complex society accepting the diktats of even a noble philosopher without resistance. Therefore, empowered, effective, participative, accountable local governments and institutions of stakeholders are vital for the rejuvenation of our democracy.

In many states, in the 1960s, and even in the early 1970s, local governments flourished. High quality leadership emerged, and they delivered exceptionally well. The flourishing of school education in many regions in those days was largely because of the leadership and vision of local government leaders. Despite inadequate resources, community was involved in education, water supply, roads, village tanks, healthcare and agricultural extension. In several pockets where genuine autonomy was given, credit cooperatives succeeded. Milk cooperatives brought about a white revolution, and demonstrated how stakeholder empowerment and decentralisation effectively harness technology, benefit from professional management, acquire economies of scale and build a nationwide brand image through federalisation. The high degree of political centralisation of the emergency era of mid-1970s irreversibly weakened local governments. With time, the state legislature and the bureaucracy have developed powerful vested interest in a corrupt, centralised governance model. The nexus of legislators and bureaucrats stymied all subsequent efforts to strengthen local governments. As the states were already well established as second - tier governments in the eyes of the people, local governments were increasingly seen as interlopers. Even when some efforts were made to empower local governments, hostility of legislators and bureaucracy, heavy dependence of state government for resources, state control of even local bureaucracy, provincialisation of practically all services and all segments of bureaucracy, and the prevailing crass political culture of corruption and abuse of power have ensured that the local governments did not survive for long, nor were they effective in fulfilling their role.

Over-Structured and Under-Powered

Why did the 73rd and 74th Amendments fail then? Sadly, the well-meaning 1992 amendments created over-structured, under-powered, ineffectual local governments. Failure was therefore inevitable. If the Constitution simply

guaranteed effective transfer of powers and resources to the third tier of governments and left the details to the states, things would have been radically different. Instead many serious mistakes were committed. States were not given the flexibility in organising local governments based on their history and experience. For instance, in many states, there was an organic linkage between village, block, and district level local governments. The amendment imposed a uniform pattern, creating a separate elected council for each level. In several states, efforts were being made to directly elect the chairpersons of local governments, giving them popular mandate and authority. Constitution made it mandatory to have only indirect election of chairpersons in intermediate and district bodies. Many states already provided for reservation of women, SCs, STs and backward class in local government bodies. But the Constitution, by not limiting reservations for representative councils, and by extending them for executive office, made rotation of reservation of the chief executive inevitable. As a result, leadership development became impossible. Weak, transient leadership could not assert authority, or mount collective pressure over the state to give more autonomy and resources. Finally, the Constitution is silent on real powers or resources to local governments, and left them to the discretion of unwilling and recalcitrant states. As a result, they continue to remain as largely ineffective, ornamental bodies, with mandatory elections but no real effective role.

In this backdrop, significant fiscal devolution could have been the effective means to strengthen the third tier of federalism. The Fourteenth Finance Commission (FFC) report (2013) provided for significant increase in transfer of resources from Union to states. This was a priceless opportunity to painlessly transfer adequate resources to local governments. Once resources are transferred, functions and powers would have followed. However, FFC recommended only ₹287436 crores to local governments over five years out of the total devolution of ₹39.48 lakh crores, a paltry 7.3 percent of union devolution, and a much smaller share of total public expenditure in the country. Elsewhere in the world, local governments account for 20-30 percent of the total government expenditure. The Union government could easily have utilised the opportunity to transfer to local governments a much larger share of union transfers. A priceless opportunity was squandered.

Fiscal Prudence and Local Decisions

All genuine liberals, serious economists and enlightened politicians, bureaucrats, and citizens are deeply concerned about misallocation of public resources and the rise of unchecked, reckless, competitive populism at the cost of primary responsibilities of state. Rule of law, delivery of justice, public order, school education, quality health care, basic amenities, and infrastructure are all underfunded and suffering neglect at the altar of short-term vote catching freebies. In any democracy, there is a clash between the short-term political price that politicians have to pay while pursuing long-term public good. Therefore, rational public policy and prioritisation always tend to suffer in a popular democracy. This tendency is aggravated in a centralised regime, because people do not directly perceive the alternative benefits they receive by giving up a subsidy. For instance, a household that is now receiving cooking gas subsidy is asked to give it up for vague notions of national good. For a struggling family, it is hard to give up a sure benefit in exchange for a vague promise of future good. But if these subsidies are administered locally, and people see the alternative use of additional public funds saved by de-subsidisation, there is greater likelihood of people making informed choice between short-term subsidies and valued public goods like safety on the streets and water supply. Clearly empowered local governments and innovative resource management at local level can radically alter our fiscal landscape, promote prudence and help focus on public goods.

Success Stories

Almost all significant successes in delivery of services in India are a result of local innovation and decision making, not central diktats and control. Alandur municipality in Tamil Nadu, a small town of about 80000 people that is now a part of Chennai corporation, became a pioneer as the first small town to build a decent sewerage system with local resources and citizens' support. As a result, property values appreciated dramatically in a short period of time, apart from the obvious benefits of sanitation, health and beautification. Verghese Kurien's pioneering efforts transformed the lives of millions of farmers through small cooperatives despite meddlesome

government control, not with government support. In Andhra Pradesh, a truly liberal Mutually Aided Cooperative Societies Act (MACS Act) was enacted in 1995 to liberate self-reliant cooperatives from the clutches of government. Similar laws were enacted in eight other states over the next decade. These self-reliant, autonomous cooperatives under MACS Act were hugely successful, even as government controlled cooperatives in most cases failed and forever demanded more sops and subsidies. Despite that, there were frequent government efforts to control self-reliant cooperatives. I had the privilege of playing a role in helping Parliament enact the 97th Amendment explicitly guaranteeing protection of Article 19(1)(C) to cooperatives, and it became law in 2012. Even then, the government needlessly incorporated a new, inelegant, inconsistent Part IXB in the Constitution against all advice. This chapter has now been rightly quashed by Gujarat High Court, and is being adjudicated by the Supreme Court.

During 1986-89, I had the privilege of mobilising people, and with their full participation and ownership create a record 125,000 acres of new minor irrigation through 453 lift irrigation schemes, 70 diversion schemes, and over 2800 bore wells, all at a fraction of the cost of government projects. In all cases, the bank loans were promptly repaid by farmers well ahead of time, and the benefits far exceeded the investments - public or private—in a short span of time. The Indian Space Research Organisation, Bhabha Atomic Research Centre and some of the better Public Sector Undertakings achieved great success and became islands of excellence because of autonomy and empowerment, not centralisation and government control. There are many such examples of outstanding success and enduring progress when people are truly empowered and are enabled to seek their destiny through local efforts and innovation.

This principle is universal and applies to all institutions of stake holders as well, wherever they are clearly identifiable. The cities of Sunnyvale and Cupertino in Bay area of Northern California are only separated by a road. However, the property values of Cupertino are significantly higher than in Sunnyvale because the School Board there functions very effectively to the benefit of children in public schools. Under American law, only residents

who pay local taxes can send their children to local schools, and therefore there is high demand for housing in Cupertino and property values shot up! It is this convergence of taxes, services, prosperity, and quality of life that makes effective local governance and democracy a vibrant, exiting, wealth-promoting, value-adding, leadership-nurturing exercise.

Way Out

Finally, what can be done to institutionalise the third tier of federalism in the current climate of political polarisation? Based on our own experience and global best practices, the following approaches should be considered:

- If political consensus can be built, the Constitution should be amended incorporating a local government list in the Seventh Schedule to provide for effective and empowered local governments with guaranteed functions and resource transfer, leaving all details of organisation to states by flexible legislation.
- Reservations should apply to elected councils, and not for executive offices of chairpersons, so that leadership is nurtured and sustained.
- A significant share of not less than 33 percent Union transfer of resources to states should go to local governments. Functions and functionaries will follow, as states would want to reduce financial burden, and will be eager to transfer them to local governments.
- Transfer of resources should be to local communities and stakeholder teams as far as practicable, so that local people directly participate in decision-making and derive benefits of decentralisation. For instance, the smallest unit of *panchayats*, and ward committee in a municipality are closest to people, and most resources and decision-making authority should flow to them.
- In education, healthcare, water management, and other sectors, stakeholders should be formally empowered at local level in a transparent manner with full authority and accountability.

- In each district and major city, there should be an independent, empowered Ombudsman institution by law with the resources and power to swiftly investigate, penalise, and punish all wrong doing by elected politicians or bureaucrats in local governments.
- The Legislative Council (where it exists) composition should be changed by law under Article 171, so that it becomes council of local governments representing both urban and rural local governments at par with Rajya Sabha at the union level functioning as Council of States.
- An effective and elected district government comprising of both rural and urban local governments should be the goal as a third tier of federalism. A district in India is larger than half the nations of the world and has great diversity and is the true unit for political participation and collective action in India.
- A single Election Commission and common electoral rolls for Parliament, State Legislature, and local governments are necessary to avoid confusion, and to give legitimacy to local governments at par with the Union and states.
- A concerted effort should be made to reconstitute village *panchayats*, so that a country or cluster of villages will become the unit of self-government. This will neutralise the traditional hierarchies in a village, give economies of scale, facilitate introduction of technologies, and enable professional management of local governments.
- Local police functions like investigation of petty offences, traffic management, patrolling, and simple law and order problems should be under local control.
- The Gram Nyayalaya Act, 2009 should be extended to all urban areas as local court law, and a local court should be created to try all simple civil and criminal cases with summary procedures as an integral part of independent justice system under the High Court's overall supervision.

- Jurisdictions of various authorities – electricity, water supply, roads, local police, local courts – should be coterminous as far as practicable so that there is complete convergence of services.
- As far as practicable, all citizen services should converge. In Germany, citizens need to approach the municipality even for passport services. While passport is a federal service, the point of contact is local government.
- A service guarantee law should be enacted at national level to be applicable to all states and local governments, and enforced to ensure timely delivery and penalties for non-performance, along with grievance redressal mechanism. (Such laws exist in several states; but there is need for a legislation applicable to state and local governments all over the country.)
- Call centres should be established for each city and cluster of local governments so that citizens can directly access the service provider, and all interactions and service delivery can be monitored.
- The legislators should be given legitimate, enhanced role in shaping public policy, legislation, directing public expenditure and holding state government to account through empowered and effective legislative committees and improved legislative procedures and processes.

Conclusion

India is at cross roads. Our liberal democratic institutions have served us well, and we could survive as a united entity and a stable democratic polity. We could preserve our freedoms and achieve moderate levels of growth. But we have vastly underperformed relative to our potential, and compared to other similar societies. We have the potential to emerge as an economic giant and a global power. But real growth and prosperity are possible only if we involve people in governance, empower third tier of federalism, nurture leadership and harness grassroots energies. We

have squandered precious time and the nation paid a heavy price for our failure to involve people in governance and incapacity to deliver basic services. Status quo is unsustainable and detrimental to our future. A lot needs to be done to make our democracy function in tandem with people's aspirations and to help us fulfil our potential. The most vital, urgent step in this transformation is empowerment of local governments and stake holders.

Liberty and Security in Radically Networked Societies: A challenge for every generation

PRANAY KOTASTHANE & NITIN PAI

On December 28, 2014, an improvised explosive device (IED) explosion occurred on Church Street, a popular hangout destination in the city of Bengaluru. Within minutes, Twitter was abuzz with messages to this effect:

1st tweet by **@abc**: *Blast on Church Street in Bengaluru.*

2nd tweet by **@lmn**: *Blast near church in Bengaluru.*

3rd tweet by **@xyz**: *Blast in a church in Bengaluru.*

This rapid spread of misinformation could have potentially escalated into on-street mobilisation and counter-mobilisation, but was prevented by credible online presence of the Bengaluru City Police, which quickly dismissed this malicious information through its Twitter and Facebook social media teams.

While acknowledging that such misinformation might have been a case of online ‘Chinese whispers’, repeated occurrences of such online campaigns suggest otherwise. This case clearly highlights that technology, specifically the Internet and mobile devices, is seen as an important instrument to enable protests, activism and mobilisation, especially because they are less sensitive to control mechanisms traditionally employed by governments of the world. This is precisely the challenge encountered by a hierarchical state in an age of networked societies.

While the state tries to respond to this genre of online propaganda, the question to be asked, and answered is—how can the state ensure public security while upholding individual freedoms in networked societies? This chapter attempts to answer this fundamental question.

Before we discuss responses to radically networked societies, it is important to contextualise the ‘liberty versus security’ debate in India. The first section of the chapter does that and takes a look at the normative case for trade-offs between liberty and security in modern liberal states. The second section deals specifically with the nature of these trade-offs in India. The third section is the core piece of the paper, explaining what a radically networked society is, and why it is a challenge for our generation. Finally, the fourth section discusses responses to this challenge. Instead of dealing with specific technological solutions, the attempt is to find approaches that are liberal and effective in countering the challenge posed by RNSs.

1. Normative case for freedom—security trade-off in liberal states

Liberty and national security are often seen as being antagonistic to each other in common parlance. But there is one concept that adds nuance to this narrative of antagonism between liberty and security: the state. To understand the role played by states in bringing together liberty and security, let us begin with an axiom—in modern nation-states, all individuals are entitled to liberty. Every individual possesses a free will and he/she will be invariably inclined to exercise this free will.

This axiom leads us to the question: is there a limit to exercise of liberty? What happens if one’s freedom becomes a license and it is utilised to trample over the freedoms of others? In fact, the state of unrestricted liberty, cherished widely today, did exist in the earliest stages of the human civilisation—a time referred to as ‘state of nature’ by western philosophers and *matsyanyaya* by Indian philosophers.

In this ‘state of nature’, the ability to enjoy freedom is bounded solely by a person’s individual power. Thomas Hobbes, the seventeenth century English philosopher, describes such a condition as follows,

Men live without a common power to keep them all in awe, they are in that condition which is called war; and such a war as is of every man against every man (*bellum omnium contra omnes*).

Life, therefore, is 'solitary, poor, nasty, brutish, and short.' To better enjoy their rights and freedoms, individuals trade off a part of their freedom for the security offered by a political institution called the state. Kautilya's *Arthashastra* also echoes this trade-off in these words,

People suffering from anarchy as illustrated by the proverbial tendency of a large fish swallowing a small one (*matsyanyayabhibhutah prajah*), first elected Manu, the Vaivasvata, to be their king; and allotted one-sixth of the grains grown and one-tenth of merchandise as sovereign dues. Fed by this payment, kings took upon themselves the responsibility of maintaining the safety and security of their subjects (*yogakshemavah*), and of being answerable for the sins of their subjects when the principle of levying just punishments and taxes has been violated.

In Western philosophy, this trade-off formed the basis of social contract theories. In *Leviathan*, Hobbes argued that individuals cede all their rights in return for protection to a sovereign who is himself above the law. John Locke, writing after Hobbes, is more moderate. In his view, individuals surrender only some of their rights (liberty) to a government that rules by the consent of the governed. Thus, the primary role of the state then is to prevent the strong from eating the weak and ensure that every person be given an equal opportunity to live freely regardless of their own individual power. In a state, citizens give up the right to violence to the state, so that they may enjoy the right to life, property, free speech, and so on.

The exact nature of the liberty-security trade-off varies from state to state. As such, the exact balance between liberty and security is an unsolved problem for all states in the world. However, there are two liberal approaches to striking this balance. First, minimising the number of liberties we need to give up in order to enjoy the rest. For example, North

Koreans might have to give up 90 percent of their liberties to enjoy the remaining 10 percent. In contrast, North Americans might have to give up 10 percent of their liberties to enjoy the 90 percent. Any democratic republic that wants to stay true to its name should aim to move towards the North American standard, rather than the North Korean standard. Second, liberal states allow each generation to decide the balance of trade-offs rather than hardcode them. Thomas Jefferson also advocated for this principle of reversibility in codifying laws when he said,

We may consider each generation as a distinct nation, with a right, by the will of the majority, to bind themselves, but none to bind the succeeding generation, more than the inhabitants of another country.

The next section discusses how has the Indian state, in particular managed this liberty-security trade off.

2. Nature of the Freedom-Security Trade-Off in India

As Granville Austin writes,

The Indian Constitution is first and foremost a social document. The majority of its provisions are either directly aimed at furthering the goals of the social revolution or attempt to foster this revolution by establishing the conditions necessary for its achievement.

It is with this aim that the Indian Constitution explicitly enshrined Fundamental Rights. The motive was to foster a social revolution by giving freedoms to citizens, from coercion by both the state and the society—an unprecedented attempt in a hitherto hierarchically bound society.

Another goal of the Constitution was nation-building in terms of sovereignty and security. There were fears that without a strong state, the nascent nation would implode. However, since Fundamental Rights were seen as a core part of the social revolution experiment, the aspiration was that the degree of freedoms forgone by the individual in exchange of the protection provided by the state be kept at a minimum.

The subsequent history of the Indian Constitution has been precisely about the strains between this lofty ideal of upholding individual freedoms and the public good of national security. The first strain between these two aims occurred with the First Amendment of the Indian Constitution, which introduced the concept of ‘reasonable restrictions’, making it easier for the state to regulate speech and expression. The First Amendment was significant because it,

signalled the kinds of battles that would take place between the project of nation-building and the sphere of the media. It marked the rather premature end of the vision of a ‘seamless web’, with the promotion of national security and sovereignty being prioritised over the promotion of democratic institutions.

Further, the introduction of the word ‘reasonable’ added ambiguity, locking the media, the executive, the legislature and the judiciary in a four-cornered contest.

The question of to what extent and in what way should rights be limited continues to be relevant today, particularly with the emergence of radically networked societies. The rapid pace of informational technology progress means that striking the right balance between liberty and security becomes even more difficult.

Moving beyond the limitation of rights, the Indian Constitution excels in one area that is specifically important in an age of rapid technological changes—it allows ample scope for reversibility in law making. Subscribing to the views of Thomas Jefferson, the Constitution makers decided that it was of utmost importance that generations be allowed to decide what is good for them. B.R. Ambedkar, in his famous ‘Grammar of Anarchy’ speech, had this to say about reversibility in the Indian Constitution,

I do not say that the principle of parliamentary democracy is the only ideal form of political democracy. I do not say that the principle of no acquisition of private property without compensation is so sacrosanct that there can be no departure from it. I do not say that Fundamental

Rights can never be absolute and the limitations set upon them can never be lifted. What I do say is that the principles embodied in the Constitution are the views of the present generation or if you think this to be an over-statement, I say they are the views of the members of the Constituent Assembly.

If those who are dissatisfied with the Constitution have only to obtain a 2/3rd majority and, if they cannot obtain even a two-thirds majority in the parliament elected on adult franchise in their favour, their dissatisfaction with the Constitution cannot be deemed to be shared by the general public.

This reversibility offers a template for law-making on questions of liberty versus security in the age of radically networked societies, a concept that is explicated in the next section.

3. Radically Networked Societies

The dynamics of the liberty-security trade off get complicated further with the emergence of Radically Networked Societies (RNS). A RNS is defined as a web of connected individuals, possessing an imagined identity and motivated by a common immediate cause. The defining feature of a RNS is its scale of operation, its wide reach and its ability to evade conventional national security measures.

The three essential properties of RNS are:

- i. **The sociological aspect:** Members of radically networked societies share a common imagined identity. They undergo socialisation processes such as internalising common myths in order to create and maintain in-group solidarity.
- ii. **The political aspect:** A radically networked society is capable of mobilising people based on a common immediate cause. This cause becomes a rallying point for protecting the group identity.

iii. The network aspect: Perhaps the most important aspect of a radically networked society is its speed and scalability. Creation of an imagined identity and mobilisation for a cause are both proportional to the depth of the network. It is in this aspect that the Internet as a medium has thoroughly altered the way mobilisations occur.

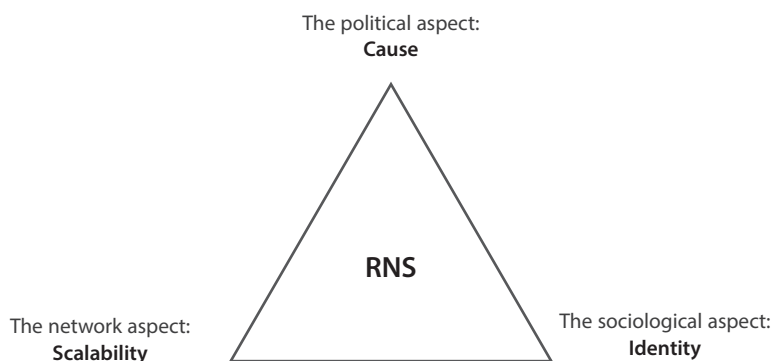


Figure 1: Graphical representation of a Radically Networked Society

This is not to say that RNSs did not exist in the past — such mobilisations have challenged the state in every generation. For example, the *Kar Sevak* mobilisation that led to the demolition of the Babri Masjid in 1992 possessed all the three properties that make a RNS. Even in that case, the hierarchical state was conspicuous by its slow and inadequate response.

What has changed, however is that the internet has made it far easier to bring latent identities and causes to the fore or even to create entirely new causes and identities. Starting in Tunisia with what came to be known as the Arab Spring, the clash between radically networked societies and hierarchically ordered states has subsequently become a template for mobilisation in many parts of the world.

This clash means that new questions emerged—should the state restrict online freedoms in the interest of public order? What content online

constitutes a threat to the national security? And how should a liberal state respond to the new challenge?

With more than 335 million users of the Internet, the Indian state has been at the receiving end of challenges posed by RNSs. Such societies have mobilised not only against the state but also targeted other groups systematically. A few examples below demonstrate how Internet-driven mobilisations work in India.

Patidar Reservation Agitation, Gujarat

Starting in July 2015, members of the Patidar community in Gujarat held public demonstrations, demanding Other Backward Classes (OBC) status for reservation in education and government jobs.

People were mobilised using social media—Patidar Apps, Facebook and WhatsApp. Very soon, there were about 56 WhatsApp groups and 15 Facebook pages. Two applications for Android were created for support, event participation and regular updates of the movement – Patidar and Patidar Anamat. These were interactive apps, which allowed users to upload pictures and share thoughts.¹⁰

The mobilisation took place in many cities across Gujarat and soon turned violent. Eleven people died in clashes with the police. Citing the role of the Internet in mobilising people, Internet service on mobile phones and certain websites like WhatsApp and Facebook on broadband were blocked for six days from August 26 to August 31 across the state.

Protests in Sealdah, Kolkata

In August 2015, some social media users portrayed a road blockade as a full-blown riot. A number of handles started to tweet about a major communal riot that Kolkata was apparently experiencing right at that very moment. The mobilisation happened as follows,

The Railway Police detained 62 madrassa students in Sealdah station and sent them to a child welfare home in Barasat on the outskirts of the city. The children were from Bihar and on their way to a seminary in Maharashtra. The police held them for allegedly travelling without proper identity documents.

Hundreds of Muslims from the Rajabazar area, close to Sealdah station, had mobilised in protest against this police move. By afternoon, a blockade was put into place, shutting off one of the city's major streets, Acharya Prafulla Chandra Road, on a five-kilometre stretch between Rajabazar and Park Circus.

This threw the city's transportation out of gear, leading to major traffic congestion. A heavy contingent of police was deployed in the affected areas and Acharya Prafulla Chandra Road was cordoned off to traffic.

By midnight, just as Twitter was buzzing with rumours of a riot, in fact, the crowd had started to disperse, as the authorities had agreed to release the detained children.¹¹

What could have turned out to eventually a riot was prevented by rapid police deployment and the initiation of corrective measures.

Flight of People of Northeast India, Bangalore

Back in 2012, India perhaps witnessed the first example of Internet-driven RNS in operation. Following instances of violence between tribal and Muslim communities in Assam, online rumour mongering over SMSes and mobile videos caused nearly 15,000 North-Eastern Indians to flee Bangalore, even though no incident was actually reported in Bangalore itself.

The Bengaluru City Police responded by banning bulk SMSes for a fortnight. Despite frantic appeals by the Karnataka state government, the exodus could not be controlled immediately.

Muzaffarnagar Riots, Uttar Pradesh

In 2013, a WhatsApp video of two boys being beaten fanned the Muzaffarnagar riots. By the time it was determined the video was at least two years old, filmed perhaps in Afghanistan or Pakistan, it was too late—the worst case of violence in the recent history of Uttar Pradesh could not be prevented.

Dadri Mob Lynching, Uttar Pradesh

In September 2015, a mob killed a 52-year old man Mohammad Akhlaq and seriously injured his son Danish. Social media played a role in spreading the rumour that Akhlaq had slaughtered a cow and stored its meat in his fridge. Pictures of the meat and body parts of an animal were shared many times on various social media websites.

The Uttar Pradesh Police in the last two months before the lynching had diffused nearly five incidents of communal tension in various villages of Dadri. Authorities here had received intelligence inputs from multiple sources about village youth, who as the police believe, were having ‘conversations’ that might have disturbed the peace in the area.

From these examples, one can conclude that mobilisations triggered by RNSs are a challenge to the state in two ways. First, they make upholding the rule of law difficult. This is because the Indian state is yet to strike the right approach to balance between liberty and security in the online space. The governments are also limited by their capabilities to track misinformation being spread over encrypted networks. RNSs find it easy to mobilise large numbers of people. It takes a single text message, video, missed call, or tweet to share information about the time and place of protests. It is possible to create massive rallies like those at Egypt's Tahrir Square and Bangladesh's 29 Shahbag with the same technology and resources used to create flash mobs.¹²

Second, states find it difficult to maintain their monopoly over violence due to the speed of mobilisations in networked societies. Because

these mobilisations take place in a networked fashion, they are many times faster than attempts at counter-mobilisation by hierarchically structured authorities.

Information flows differently in networks, spreading from node-to-node, through various channels. Each entity in a network can receive, modify, and transmit information, limited only by what technology permits. Compared to their hierarchical forebears, RNSs have faster information flows and shorter attention spans.¹³

Given this new challenge, what is the liberty-security trade off in the new setting? This question is explored in the next section.

4. Approaches to National Security Against Radically Networked Societies

In order to visualise the new national security-liberty trade off, this section proceeds in three ways. The first part deals with the approaches to national security attempted by the Indian government thus far. The second part lays down a few principles that a liberal democratic state should adhere to while dealing with questions on liberty and security. Finally, to appreciate the technical aspects in this debate, the third part presents a summary of views from leading experts in the field of Internet privacy and security from India.

4.1. The Indian Government's Responses

The most common response of the government is the mass clampdown of Internet services in the aftermath of a mobilisation. This response was executed in several examples highlighted in the last section. Not only is this response illiberal because it is non-selective and has huge negative externalities, it is also ineffective. By the time this response is executed, networks have already formed, and they can quickly move to non-internet based means. An essential feature of RNSs is that networked effects exist regardless of the Internet, such that even if Internet is blocked, communication can still continue over satellite, dial-up, radio or telephone.¹⁴

The other common response has been to deter inflammatory content from spreading by imposing high costs on those who are involved in such acts. It is with this intent that Section 66A of Information Technology Act was introduced in 2009. This section, termed ‘vague’ and ‘unconstitutional’ in 2015 by the Supreme Court, allowed for severe punishment for passing on any information that is ‘grossly offensive or has menacing character’. Ill-equipped to deal with the challenge of RNSs, it was the government’s desperate attempt to put prior restraints on free speech in the hope that this would prevent spreading misinformation online.

A more evolved response has been to put in place prompt emergency communication systems to refute the misinformation and provide citizens with timely, localised, and correct information through multiple communication channels. The Bengaluru City Police was able to use these capabilities in diffusing tensions post the Church Street blasts, a case that was discussed in the introductory section.

The last category of response has been to increase surveillance capabilities. Through systems such as National Intelligence Grid (NATGRID) and Central Monitoring System (CMS), the intended aim is to increase public safety and security by tackling crime and terrorism.

4.2 Principles from a Liberal Democratic Standpoint

The first two sections briefly described how liberal democratic republics would handle questions of liberty and security. This sub-section applies these principles to the Indian context.

First, regulations that may have an impact on individual freedoms must be preceded by open public discourse. Opinions of various stakeholders must be considered before opinions are made. The debate cycles should be longer to enable a healthy exchange of viewpoints. An example of this type of feedback was seen in the case of the draft Encryption Policy 2015, which mandated the use of encryption algorithms and key sizes as prescribed by the government. After the draft was released, there was widespread opposition from various stakeholders, prompting the government to roll-back the draft.

A second principle to be followed is to not hardcode laws. Instead, having sunset clauses for laws is an approach that can be followed. This is important as technological changes can make government regulations obsolete very quickly. Moreover, it stays true to the constitutional stance of allowing each generation to decide its own trade-offs. One possible solution is to have privacy laws coterminous with the duration of the Lok Sabha.

The third principle is that there can be no prior restraints on free speech. The idea of free speech and expression is to say (write, draw, sing, compose musically etc.) what one feels without being deterred by government, politicians, social consensus or popular sentiments. The only exception is the “harm principle” where there is incitement to violence. Some free speech can be defamatory, and those defamed can seek legal recourse for the damage caused to them. But there cannot be any prior restraints on free speech.¹⁵

4.3 Summary of Views on Liberty versus Security from Leading Experts

This last sub-section presents a summary of views from leading voices in the field of Internet privacy and security from India. Sunil Abraham et al from the Centre for Internet and Society see the tension between security and privacy as an optimisation problem rather than a tradeoff. They say,

Often policymakers talk about a balance between the privacy and security imperatives—in other words a zero-sum game. Balancing these imperatives is a foolhardy approach, as it simultaneously undermines both imperatives. Balancing privacy and security should instead be framed as an optimisation problem. Indeed, during a time when oversight mechanisms have failed even in so-called democratic states, the regulatory power of technology should be seen as an increasingly key ingredient to the solution of that optimisation problem.

An optimisation approach to resolving the false dichotomy between privacy and security will not allow for a total surveillance regime as pursued by the US administration.

If total surveillance will completely undermine the national security imperative, what then should be the optimal level of surveillance in a population? The answer depends upon the existing security situation. If this is represented on a graph with security on the y-axis and the proportion of the population under surveillance on the x-axis, the benefits of surveillance could be represented by an inverted hockey-stick curve. To begin with, there would already be some degree of security. As a small subset of the population is brought under surveillance, security would increase till an optimum level is reached, after which, enhancing the number of people under surveillance would not result in any security pay-off. Instead, unnecessary surveillance would diminish security as it would introduce all sorts of new vulnerabilities. Depending on the existing security situation, the head of the hockey-stick curve might be bigger or smaller. To use a gastronomic analogy, optimal surveillance is like salt in cooking—necessary in small quantities but counter-productive even if slightly in excess.

In India the designers of surveillance projects have fortunately rejected the total surveillance paradigm. For example, the objective of the National Intelligence Grid (NATGRID) is to streamline and automate targeted surveillance; it is introducing technological safeguards that will allow express combinations of result-sets from 22 databases to be made available to 12 authorised agencies.¹⁶

Gautam John, lawyer and technology entrepreneur has this to say regarding regulations,

Existing laws are more than sufficient to deal with these [security] matters both online and otherwise. The segmentation of online speech only on the basis of medium is unreasonable. Punishment for any real threat to public order or defamation is sufficiently covered under Article 19(2) as grounds to limit freedom.¹⁷

Raghu Raman, former head of NATGRID has a counter-point on thinking about security,

Asymmetric threats require a fundamental change in the way we think about our current socio-political scenario. Democracy pivots on civil liberties. But civil liberties are meaningless without civil security. Changing threat scenarios require society to re-think priorities between contradictory requirements.¹⁸

Conclusion

This chapter demonstrated how radically networked societies—webs of connected individuals, possessing an imagined identity and motivated by a common immediate cause, raise new questions regarding the liberty-security trade-off in the Indian context. As the Indian state tries to frame answers to these new questions, the chapter argued that liberal democratic republics should follow three principles—longer public debate cycles on privacy laws, avoiding the trap of hardcoding laws, and avoiding prior restraints on the freedom of speech and expression.

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Securing Safety Net: Sustenance, Self-Help and Selfhood

PARTH J SHAH

The author is grateful to Ritika Shah, Sadaf Hussain and Arushi Vats for their invaluable support. All the graphics are Ritika's creation. They all gave many interesting references, however I could not find the time to read them, otherwise the chapter would have been more insightful and rigorous. They were great brainstorming partners. I have not put them on the spot by asking how much they would agree with the chapter.

There are three core parts to this paper: an attempt at defining welfare and welfare state; the conservative and liberal critique of the welfare state and of India's dominant narrative of welfare rights; and, at last, an articulation of two new models of welfare that focus on citizen control and selfhood support with the ultimate goal of achieving self-help and self-reliance. The two models are based on different assumptions about which route would take us towards the goal of leading a life of 'earned respect', and about what is politically and electorally feasible. Even honest liberals could disagree on both of these sets of assumptions. They could adjudge the two models against the parameters of a good welfare system that are offered in the paper. Possible disagreements about the parameters as well as which of the two models is closer to the ideal type are difficult to enumerate, let alone settle, in this one paper.

Both the models require higher degree of citizen participation as well as direct citizen control over allocation of tax revenue towards public goods and welfare activities. The citizens are empowered to allocate a percentage of their tax dues among state agencies and civil society organisations (CSOs), which

creates a contestable 'welfare market', similar to a competitive 'economic market'. One imagines the minister of education ministry appealing to citizens to give their tax dues, just as the head of an education CSO. There are several reasons for making CSOs at par with state ministries and departments, but the most important one is the unique ability of CSOs to customise the support necessary for each individual or family to become self-reliant, to fulfil their selfhood. In terms of Professor Amartya Sen's conceptualisation of 'development as freedom', the CSOs help convert resources through capabilities into achievements. The bureaucratic state is unlikely to perform as well as CSOs in the capabilities approach to human welfare. The three characteristics that underlie both the models are citizen control on allocation of tax revenues, contestable welfare market, and capabilities approach to selfhood and meaningful life.

Let us start with the definition of welfare and welfare state and the liberal and conservative critique.

What is a Welfare State?

The term welfare state is one of the most commonly used and equally ambiguous in public as well as academic discourse. "The welfare state is very much like a melting pot, into which everyone throws what he wants, even if, not all will, of course, agree on the final product."¹ The term originated after the World War II and was first used in Britain. From Britain, the usage spread to Germany, Sweden, US and eventually to the rest of the world.²

The Organisation for Economic Cooperation and Development (OECD) defines welfare state as a guarantor of four basic commitments:³

- Minimum protection of the individual citizen from a variety of social risks, i.e. social security in relation to sickness, disability, loss of employment, retirement, etc.;
- Provision of services essential for individuals to function effectively in modern society (i.e. education, housing, child-care);

- Promotion of individual well-being, which in the modern sense includes aspirations that go beyond social security and services as traditionally conceived (for example the need to participate);

All the above three which are often seen within a context of redistribution, initially to overcome poverty by reducing inequalities, but increasingly involving the redistribution of welfare in a broader sense.

With such an expansive definition, it is hard to see which state task or program would be outside the bounds of a welfare state. The heart of the problem is in the term 'welfare' itself. That has a very elastic meaning and, therefore, almost anything conceivable falls in the domain of welfare state. Even Mukesh Ambani's level of welfare can be improved by outside intervention.

One solution is to divide the domains of state activity clearly and define them more precisely. The state operates in three key domains:

Rights protections: This includes the classical liberal right to life, liberty and property, by means of police, courts, national defence;

Provision of public goods such as education, health, sanitation: These are goods that are offered and available to all citizens without preconditions or qualifying requirements;

Welfare services or entitlements by means of transfers and subsidies targeted towards a specific group of people; for example, the Public Distribution System (PDS), food stamps in western countries, fertiliser and fuel subsidies, low interest loans to farmers and students. The groups could be defined by class, caste, gender, age. Unlike public goods, welfare services are not universal.

To avoid confusion with the generally used term 'welfare', I refer to the third domain of state function as self-help support, with the idea that these services are given to a specific group of people for a temporary period of time. The people would stop receiving these goods, services

or money once their situation improves. Also, please keep in mind that the term public good is not used in the strict economic sense.⁴ In the textbook definition of pure public goods, education and health would not qualify since both services are excludable. Economists have created 'merit goods', 'quasi-public goods' and 'goods with strong positive externalities' so that education and health would fall within the popular use of the term 'public goods', that is, what is good for the public.

Critique of the Welfare State

This is a quick summary of the existing critique of the welfare state, not comprehensive but as a guide to developing criteria for a good welfare system.

Should Welfare Be Only a State Subject?

Adam Smith claimed that both self-interest and empathy are equally natural, and they together constitute our humanity. Our empathy may work through the state—welfare state—but the state should not be the single or the primary instrument of our empathy. If we make the state in charge of our empathy, then only self-interest is left with the people! Over time, people would become more self-centred and self-absorbed. This perverse effect of welfare state can be seen in the widely made complaint about the 'me generation' and in the general disengagement of citizens from social and political processes, in more and more people 'bowling alone'. As many public opinion surveys show, the public attitude towards helping others is more like, 'I pay taxes to take care of them, what more do you want me to do?'

The critique of communism by the Eastern European intellectuals like Vaclav Havel⁵ was that the state had taken over almost all aspects of life; there was nothing left between the family and the state, and the civil society was absent. There was no room for community initiatives, and whatever needed to be done, the state was there to do it; organising local soccer teams or holding a blood donation drive, all was done by the

state. They revived the idea of civil society and argued why its existence and flourishing is critical to a good society.

We may not want to remove the state and rely only on civil society to provide welfare support, but we must delineate the role of the state such that there is an engaging and challenging arena left for civil society organisations.⁶

Inter-Generational Injustice and Electoral Pressure for Welfare Expansion

Much of the cost of the welfare state is typically paid not from the current state revenues but from borrowings, thereby passing the cost to future generations. This intergenerational injustice is simply unforgivable, but the 'next generation' is not there to protest it. Democratic politics has created a situation of 'benefits to the current generation, costs to the future generations'. One effect of this electoral politics is the continued expansion of the scope of the welfare state as well as the number of people on welfare support, despite generally improving incomes in most countries. A larger proportion of Americans are on food stamps today than at any other time.

As more and more people become dependent on the state, it would be impossible to change the 'social contract' in representative democracies that are driven by median voter preferences. Societies would be 'locked in'. Only a crisis would create a possibility of any significant change. In democracies, the voter pressure keeps the momentum for the state to become more and more generous in its benefits. The generous benefits attract more people to welfare and their increasing numbers make it impossible to reform the system. This vicious cycle of welfare politics is crippling many countries. Greece is just the most dramatic recent example of financial bankruptcy that is becoming rather common in welfare states.

Dehumanising Effects of the Welfare State

The conservatives focus on how the welfare state makes individuals irresponsible, breaks apart families and promotes single parenthood, weakens community bonds and the sense of reciprocity and obligation.⁷

The conservatives argue that material support is a small part of what helps people to get back on their feet. What is more critical is emotional, psychological or behavioural support. Often people lose hope, find their lives meaningless and they need moral support, including spiritual or religious engagement than just food or shelter. To provide this type of personalised support, it is necessary that the help provider knows the help recipient. A genuine self-help system cannot be bureaucratic and anonymous, but it would be a 'face-to-face community'. Friends, family and close-knit communities would be better in providing moral support. Only this 'moral community' can help the person to understand and accept the challenges and provide the sustained support to actualise their selfhood.

The idea of 'face-to-face self-help' underlines the conservative maxim that people should depend first on themselves and then on their families and communities. The state should step in only when all else fails. In a welfare state, the last resort becomes the first option. The state can provide material or sustenance help but it would not be able to provide the necessary moral support to fully re-energise or rehabilitate the person. The partial help or the pretence of a hand could actually be more harmful than helpful.

For the state, the person is just a number and that provides anonymity to those who take its help. The state does not ask them why or how they fell into difficult circumstances, nor demand any credible promises about what they are doing to help themselves. This anonymity and the less pressure to get back on the feet helps keep people on the support longer and begins to breed long-term, often life-long, dependency.

The anonymity and low demands of accountability does make it easier for people to ask for help. Hopefully no one who needs help would shy away. However, this ease comes at a serious cost to the society as well as the person on the state support. The person generally fails to acknowledge, not to anyone else but most importantly to himself, the generosity that makes the support possible. He feels little sense of gratitude to society or recognises the sacrifices others have made

for him. The lower sense of gratitude and generosity leads to lower standards of self-responsibility, and lesser demands on the self to get back on the feet. Welfare state advocates not only denigrate any discussions about gratitude but also proclaim that it is a person's right to get unquestioned support from the society for as long a period as the person demands.⁸

Certainly we do not want people in need to feel shameful in getting help. We want them to reach out promptly and secure all the help they need. There is, however, a big difference between feeling shameful and feeling grateful. It helps the person to remember that it is someone else's money. It helps the society to remember that the real goal is to make the person self-reliant, lead a life of earned respect, and not accept fuzzy but permanent dependency.

Primacy of Intentions and Not of Outcomes

In perusing the literature on welfare policies and welfare state, obviously a very fertile area for activists and academics, it is shocking that there is hardly any focus on the outcomes that the welfare state is expected to achieve. The ink and energy is spent on the needs and inputs—refining, re-conceptualising, re-articulating, re-prioritising. The debate on welfare has the same flavour as the one on education—focus on teacher qualifications, teacher training, teacher compensation, teacher work life, teacher professional development, teacher career path, students appear as an afterthought. When the focus is on students, it is about their socio-economic background, family characteristics, parental engagement and ownership, play of caste and religion. In light of all these weighty challenges, which seem rather insurmountable, hardly any one dares to point a finger at learning outcomes. It is as if only in the twenty-first century that we have finally stumbled upon the idea that the purpose of an education system is learning.⁹

The sheer lack of debate and discussion on the outcomes for which we should hold the welfare state accountable appears to be a global conspiracy against citizens, taxpayers and the people who need help.

Critics of the Western Economic Model Advocate the Western Welfare Model

Those who critique the market for commodification, alienation, monopolies, materialism, and exploitation fail to see the parallels evident in the welfare state. Even though the argument for welfare state is couched in terms of human dignity, the system treats humans as just material beings. The beneficiaries are seen as amoral beings, feeling neither gratitude or reciprocity, nor self-responsibility, self-esteem, pride or shame. The values that make us human are alienated. Give them food, clothes, shelter, medical care and they will be all right, implying that only the material dimension is acknowledged.

The contradiction between opposing the western economic model and championing the western welfare model is hardly recognised, let alone explained. The model of welfare state overlooks the indigenous and context-specific responses to the problem of deprivations, which are both material and behavioural in nature. The fraternal organisations, based even on caste and creed, Sikh langars, Parsi panchayats, provision of dharamshalas, are all indigenous efforts. By relying heavily on uniform schemes that identify welfare as solely the domain of the state, we homogenise the experience of poverty, unemployment and other such concerns, which percolate differentially to individuals. An approach that recognises experiential diversity is intrinsic to identifying the problem and crafting the right interventions, which does not simply reduce people to bearers of basic public goods. The unilateral delivery mechanism of welfare by the state that envisions citizens as mere recipients of welfare is instrumental, impersonal and dehumanising.

Market relations are relatively more impersonal and can likely be replicated in different environments and cultures. Moral relations are far more personal and contextual. It would tend to reason that western market relations are less problematic for replication than the western moral relations. There should be more opposition to the adoption of the western welfare model.

Critique of Welfare as a Right

In India the dialogue on welfare is centred on rights and there has been proliferation of such rights to food, education, employment, health, clean air, broadband.

Is welfare a right or entitlement? According to Swaminathan Aiyar,

Rights are freedoms from oppression by the state or by society (through ethnicity, religion and gender). These rights do not entail government handouts. Entitlements, however, are welfare measures entailing government handouts. Rights are not limited by budget constraints, but entitlements are. So, rights are universal but entitlements are not.¹⁰

Aiyar captures the distinction between rights and entitlements in very practical terms—welfare is not universal and faces budget constraints. The older distinction from Isaiah Berlin is of ‘negative rights’ and ‘positive rights’. Some recent scholars use the terms ‘general rights’ and ‘special rights’.¹¹ One can choose the terms, but the distinction is undeniable.

The advocates of ‘welfare state’ claim that by making welfare as a right and not an entitlement, a few important things happen—welfare rights become justiciable, the government cannot use the argument of limited budgets, the stigma of asking for help goes away and people actively demand their rights, and access becomes equal across the country since all citizens have the same rights. Let us analyse these arguments.

Are Welfare Rights Justiciable?

A legal right creates a constitutional obligation on the government to fulfil the right, including raising necessary revenues. It helps to take away the option from the government whether to provide for the right or not. However, none of these rights are justiciable.¹² No one in government will be punished or go to jail for not providing the right to food or education or employment. If the welfare rights are not justiciable, the state then has

the discretion in deciding how far it wants to fulfil the rights, that is, the discretion that the right is supposed to take away.

The welfare rights advocates understand that these rights cannot be justiciable and so do not take the hungry child or unemployed widow to court to demand their rights. If they did, the duplicity would be exposed.

The justiciability is an important marker of the distinction between rights and entitlements. Rights are and must be justiciable; entitlements cannot be justiciable. The government would claim that it is impossible to guarantee that every person would receive all the entitlements, all the time. However, it is trying its best to ensure that the impossible does happen. It is hard to see how any court would be able to challenge the government's 'best-faith-efforts' argument. Does the court deliver justice to all at all times?

Do Rights Remove the Stigma of Dependency?

If welfare becomes a right, then the stigma attached to asking or receiving support would go away. Instead of suffering in silence, people would march on the streets to demand support. Some people who might hesitate to extend their hand for help do seem to rise up to demand 'nine is mine!', that is, nine percent of GDP must be spent on education and health.

However, it is an empirical question: whether the rights claims make people actually believe that they have enforceable claim to the results of others' labour. It is one thing to expect people to be generous but quite a different matter when one demands that they are morally and legally required to be generous. There is little data on how peoples' beliefs change when welfare becomes a right.

An important sociological question is whether it is good for the society to make dependency an acceptable life choice. Several of the arguments about the dehumanising effects of welfare made earlier suggest that we need to be careful about what we wish for.

Do Welfare Rights Lead to Further Centralisation, Standardisation and Authoritarianism?

When welfare becomes a right, then the state must provide it to all citizens equally, it cannot allow different type of programmes for different groups of citizens in different places. So the first effect is centralisation of power. In India, it has meant powers moving to the central government from state governments. The right to employment created one central scheme across the country and forced closure of multiple state programmes that were designed for the same objective. The right to education has had similar impact on school education.

In addition to the centralisation of power, the rights framework forces one-size-fits-all type of approach and limits experimentation. With the right to education, a single regulatory framework is now applied to states as varied as Bihar, Assam and Karnataka, and experimentation is allowed only within the single regulatory framework, limiting the scope of learning new effective and efficient solutions.

A longer-term impact of centralisation of power and standardisation is that the state becomes intolerant of diversity and participatory democracy. At a national level, the main avenue of engagement for a citizen is a vote in national elections. At a local level, citizens can do more than just vote— they can engage directly with elected representatives, mobilise gram or mohalla sabhas, join like-minded residents. Since all of the important policies are now made at a national level, there is little for ordinary citizens to contribute, and it becomes the domain of full-time activists. The value of democracy decreases. Welfare rights advocates, I suspect, would prefer decentralisation, diversity and participatory democracy but impact of their approach is exactly the opposite—a perverse or unintended consequence.¹³

I submit that welfare rights may seem noble, but in reality they are a misguided, perilous demand.

What is a Good Welfare or Self-Help System?

The real world experience with the state-dominated welfare systems has raised many serious challenges. Some of these challenges are related to the state capacity and the design of welfare schemes. However, as discussed in the previous section, several of the problems are systemic and inherent in the nature of the state welfare systems. Before we think about alternatives to the current systems, it would be worthwhile to identify characteristics of a good welfare or self-help system.

In consideration of the critique of the welfare state, I prioritise four characteristics for an effective and sustainable self-help system.

Promote Self-Reliance

The goal of the system should be not just to provide generous support on demand forever but to endeavour to enable the person to stand on his own feet. The conservative critique and experiences of the real world welfare systems make it abundantly clear that self-reliance has to be the ultimate goal. The confusion or may be the lack of courage to agree on the overarching goal is one of the key drivers of today's underperforming and over-expensive welfare systems. The goal obfuscation has left all parties - citizens, taxpayers, beneficiaries as well as the political class and public officials - unhappy with the system. Each one blames one or the other of the groups for the failure of the system; there seems to be no way to bring all these groups together for a constructive dialogue.

The biggest challenge will be in shifting the system's focus from inputs to outcomes. For a bureaucratic system, it is easier to provide, measure, and adjust inputs. It is a death knell to be held to account for outcomes, and make beneficiaries self-reliant. Fortunately, the twentieth century real world experience of the welfare state is strongly on the side of self-responsibility advocates. A public discourse must start.

Provide both Sustenance and Selfhood Support

The current predominance of material support is unlikely to lead to a life of earned respect. The sustenance support is easy to implement, to standardise across geography and beneficiary groups, to keep it anonymous, and to adjust the quantity with changing circumstances. But only material support would not achieve the goal of self-reliance. We must include behavioural, emotional, psychological, and even spiritual support. The selfhood support demands too many difficult things - face-to-face engagement, motivated and conscientious social workers, instilling a sense of gratitude without the burden of shame among beneficiaries, and a capacity for tough love. Both material and moral support are necessary.

Necessitate Active and Direct Citizen Engagement

Given the complex nature of the selfhood support, it cannot be monitored by a bureaucracy, which is a strictly rule following organisation. It needs to be managed by those who are connected to the community and have credibility where the work is being done. In the system I propose, citizens and taxpayers would be critical in guiding the selfhood support and in achieving the goal of self-reliance. The citizen engagement would go far beyond paying taxes. They would be real stakeholders in the working of the system.

Encourage Decentralised and Accountable Management

CSOs would be primarily responsible for making beneficiaries self-reliant and the system would have to hold them to account for achieving that goal. The internal management information system (MIS) would provide information on the beneficiaries—challenges, interventions, length of support, what would self-reliance mean in individual cases, re-entry of beneficiaries, CSOs would be judged on the effectiveness and sustainability of their interventions.

A decentralised and localised system of support as well as monitoring would be necessary. One can imagine apps and new communication

technologies to help bring about more timely, effective and engaging interactions among beneficiaries as well as across beneficiaries and CSOs. An app - www.localcircles.com - connects residents of a locality and helps them to work together as a group to solve local governance issues. Decentralised and accountable management would keep the focus on outcomes and away from inputs.

The following story also helps in understanding the factors that make a good self-help system. Basically there are three ways to help others:

Help myself - directly help others with my time, energy and money

Help a charity - give my time and/or money to a charity

Help the state - give my money as taxes for the government to provide help

When I ask which of the three ways is better for helping others, the overwhelming majority selects the options one and two. Hardly anyone chooses the third option of government run welfare. Between the first two options, usually a younger audience prefers the first one and a more mature one the second.

Which of the options involves more active citizen participation? It turns out that the answer is the same as for the best way to help others. The best way to help others is the one that demands more active citizen participation! In the first option, I give time, energy and money; in the last one, I give only money.

In the seminar hall or in principle, the government is the last choice but typically it is the first choice in practice. Why is there a dichotomy between the principle and practice? I suspect that people have serious reservations about the capacity of individuals/themselves as well as private charities to address the scale and variety of welfare challenges. They know that helping others often requires skills, attitude and capacities that they themselves do not have or would be unwilling or unable to offer. Also, there is no guarantee that there will be sufficient

and timely philanthropy to help all those who need help.

Given the basic tension between the principle and the practice, there is an impasse in the welfare debate. In principle, private welfare is better than state welfare but it is impossible to convince ourselves that private welfare could actually provide a national safety net. Is it possible to re-imagine the welfare system where there is assurance of support to all who need it but which also necessitates more and more non-state welfare over time? Could we design a system that aligns the practice with the principle?

Sustenance and Selfhood Paradigm

The model builds on the second principle of a good self-help system - provide both sustenance and selfhood support. But before detailing the model, let me first discuss the role of CSOs and the reasons they occupy such a place of pride in the model. First, CSOs are the key agents that help convert resources into achievements by augmenting individual's capability set. Second, the vast number of local CSOs are better able to employ the Hayekian disperse knowledge about needs and resources than a centralised welfare system.

The Significance of Civil Society Organisations

Even the best-run welfare state would be bureaucratic, impersonal and most likely to employ one-size-fits-all approach. It would lack customisation or personalisation and it would be unable to provide emotional, moral, socio-psychological or behavioural support.

Let us consider the instance of unemployment. While unemployment affects many people, the particularities of each case will vary. It can manifest due to many causes, including drug addiction, lack of skills, domestic violence, loss of motivation. A homogenised approach is very unlikely to result in sustained employment or in overall restoration of the well-being of the beneficiary. As discussed in the critique of the welfare state, both sustenance and selfhood support or material and moral support are necessary.

Material support could be provided by the state as it requires vast amount of resources and is suitable for standardised system of delivery, particularly when that support is given in the form of cash transfers. This would also guarantee that all would have access to at least the basic necessities. The next step is to provide moral or selfhood support. CSOs would be uniquely positioned to meet this challenge.

A simple centralised approach towards provision of primary goods is not sufficient to address the needs of all individuals. An individual should possess the freedom to choose what he needs or wants, and not the other way round, where his needs are dictated by an impersonal administrator. What we need is a localised platform where the intended recipients of selfhood support have the freedom to engage with CSOs of their choice.

The capability approach developed by Amartya Sen and Martha Nussbaum is an apt theoretical framework of welfare that takes into account the economic and emotional well-being of an individual. They have emphasised the importance of evaluating welfare from the lens of development of an individual’s capabilities, moving from an outcome-based approach to an

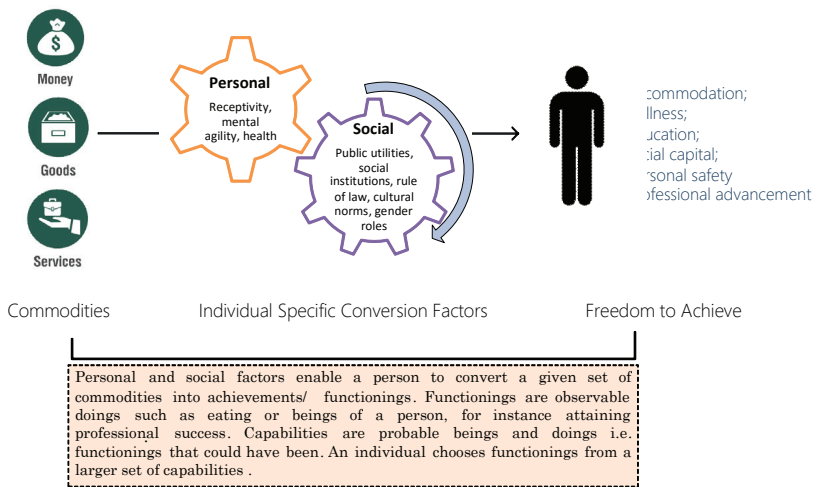


Figure 1: The Capability Approach to Self-Help

opportunity-based approach. They argue against the accepted means of measuring welfare in terms of commodities or income that fails to capture the difference in individual capabilities. Figure 1 captures the link between resources, capabilities, and functioning.

To continue the unemployment example, just knowing that the person is unemployed is not good enough. One needs personal engagement to know more about the individual, the social and personal factors influencing his life and eventually, to transform his entitlements or resources into a successful and meaningful life. This schema ascribes the central role to the uniqueness of the individual and his situation.

Although little has been done to develop practical applications of the capability approach, it is understood that it is beyond the purview of state to provide the degree of customisation necessary for successful implementation of this framework. For capability development avenues, the state is too monolithic and homogenous an entity to take into account the pluralist influences at play in an individual's life. It can be achieved only by a continuously evolving dialogic process between interested agents and individuals.

Dispersed Knowledge and Local CSOs

The fundamental nature of knowledge is such that it is scattered among millions of people and it is necessary to create a model of welfare that recognises and brings it into effective action. The Hayekian view of knowledge is understood within economics domain but its relevance to welfare arrangements deserves consideration.

...the knowledge of the circumstances of which we must make use never exists in concentrated or integrated form but solely as the dispersed bits of incomplete and frequently contradictory knowledge which all the separate individuals possess.¹⁶

CSOs operating at local and relatively closer to ground reality can provide the requisite personalised moral and psychological support.

Implementation Architecture

How do we implement the sustenance and selfhood paradigm? I discuss the basic model that puts citizens in charge of allocating some of the tax dues directly to their chosen CSOs. The next step offers two possible paths called Citizen Choice I and Citizen Choice II. These are then contrasted with the existing welfare systems.

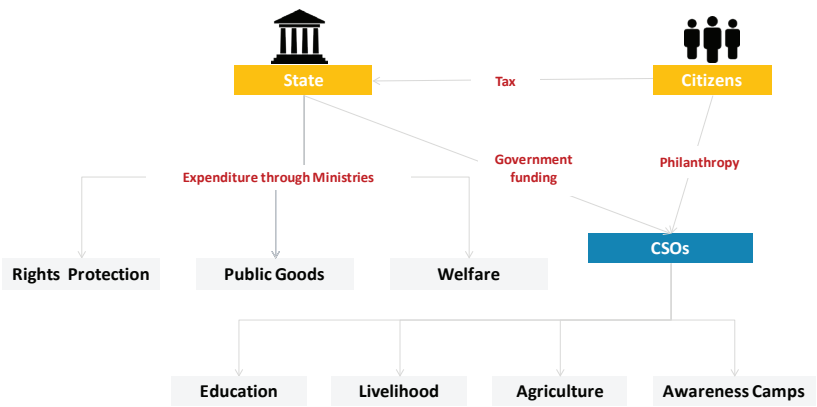


Figure 2: The Current Structure: Resource allocation solely by the State

In the current structure of welfare, citizens pay taxes to cover all the three functions of the state - rights protection, public goods provision and welfare services - as defined in the earlier section. Citizen philanthropy and at times government funding supports a variety of CSOs.

The funding for CSOs is rather unpredictable. But simply increasing state funding of CSOs could adversely impact their independence, focus as well as effectiveness. How could we increase public funding of CSOs without state control? Let citizens, not the state, decide the allocation of public money to CSOs. The CSOs receive public money as decided by citizens; the ‘state funding’ and ‘public funding’

are categorically distinct. We set a rule that every citizen has the power to allocate among CSOs X percent of her annual tax dues. Every citizen pays direct as well as indirect taxes. Theoretically, it is possible to calculate the total of direct and indirect taxes that a citizen pays, so each and every citizen would have some money to allocate to CSOs. For the simplicity of exposition, let us just focus on direct taxes. So at the end of the year, I fill out my tax return and I send a cheque of $1/X$ percent to the government and 'donate' X percent of my taxes to CSOs of my choice.

The CSOs would have to compete for these 'tax donations' by providing information about their work and effectiveness. A public-private entity, let us call it India Swavalamban Sangathan (ISS), could collect, verify, and rate CSOs so that citizens can make informed choices. One can visualise a variety of aggregators and rating agencies performing the information and guidance role over a period of time. No one agency would have a monopoly on information and rating, and ISS analysis will always be available to citizens.

The government can continue to provide welfare through the various transfer and subsidy schemes as it does currently. One could see that as citizens become more involved in understanding the work of CSOs and their impact, many of them may begin to give their own funds to supplement the tax money they allocate. By putting the onus of decision on citizens, we would see a much higher degree of awareness about the need for support in the society, the various ways of providing the support and the CSOs that are doing the work on the ground. There can be no better way to get citizens actively engaged with their communities than by giving them the power to choose organisations that are effective and allocate their tax dues to those entities directly.

As the public funding helps CSOs to build scale, specialisation and innovative solutions, some of them would emerge as leaders in their fields. Just as companies come in various shapes and sizes, the CSOs would also vary depending on the multitude of local and national factors. Some

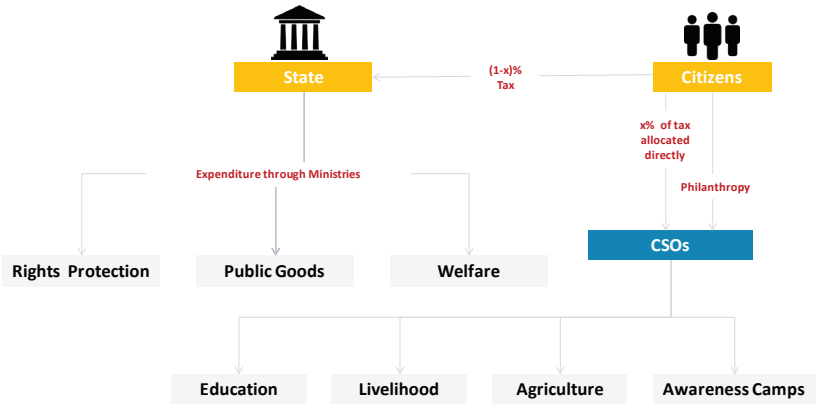


Figure 3: Proposed Model 1:Shifting Some Tax Allocation Powers to Citizens

CSOs would be of the size of large corporate and some of start-ups. What matters the most is the emergence of an ecosystem of CSOs that is as vibrant, innovative and effective as the ecosystem of enterprises that has evolved over time. We would have a ‘welfare market’ to match the ‘economic market’.

So far we have empowered citizens to allocate a percentage of their taxes to CSOs of their choice. The CSOs are receiving more regular and assured support from a much larger pool of money. These empowered CSOs are now able to provide emotional, behavioural, and moral support to match the material support of the state and, thereby, help build a more robust and effective self-help system. Through judicious combination of material or sustenance support with moral or selfhood support, they are enabling individuals to meet the challenges and lead a life of dignity and pride. Their customised interventions improve individual capability set and, thereby, convert commodities and entitlements into functionings and flourishing.

From here on, there are at least two different paths to move forward. The paths make different assumptions about institutional capacity and political feasibility. The two models are referred to as Citizen Choice I and Citizen Choice II.

Citizen Choice I

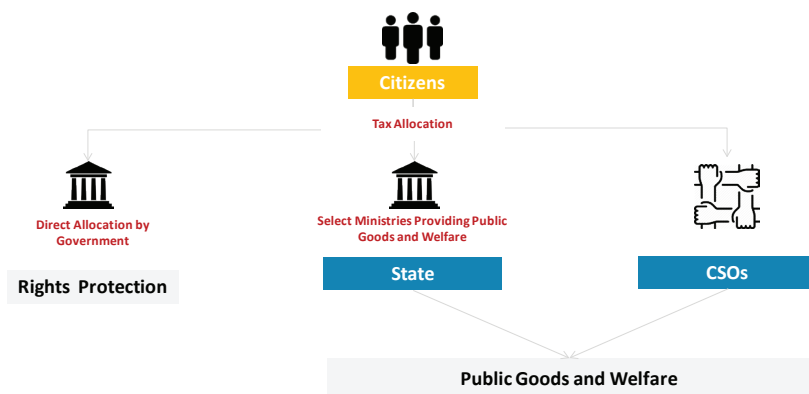


Figure 4: Proposed Model 1.1: Citizens Allocate Tax Dues to Ministries and CSOs

The hallmark of the citizen choice models is the democratisation of the power to allocate tax revenues. Historically, the state has had monopoly over this power and the state was the only claimant of tax revenues. Now citizens also have a partial power and some government ministries and CSOs become claimants of the tax revenues.

In the Citizen Choice I model, citizens allocate tax dues not only to CSOs but also to the ministries and departments that provide public goods as well as welfare or self-help support. The departments of education and health as well as the departments of child and family welfare and tribal welfare could receive support directly from citizens. The proportion of tax dues that citizens control could be debated but it should be a sizable percentage to have the necessary impact on the system. It could be 50 percent of the tax dues or even higher.

Imagine a situation where government departments are making an annual pitch to citizens about what they have achieved in the year and why they should get their money! The resultant transparency and accountability would be unprecedented. Each department would have a clear and

understandable purpose and targets and would track and report on them in a manner that the citizens could understand and analyse. The government would be forced to assess performance of programs and weed out the ineffective and inefficient ones. The competition between CSOs and departments would improve effectiveness and lower the costs. The welfare sector, like the education sector, which has hardly seen major innovations, would be open to new ideas, technologies and institutional designs.

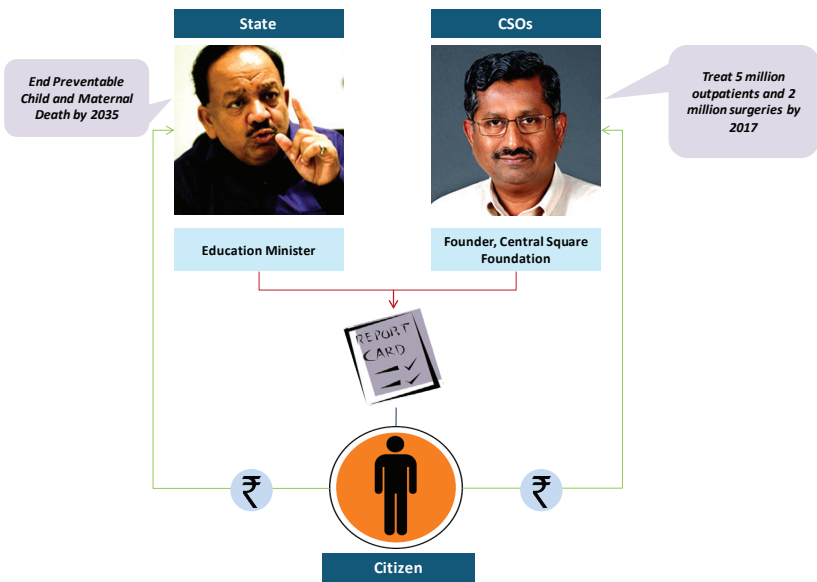


Figure 5: Government Ministries and CSOs Compete for Citizens' Money

A new kind of competition would also emerge; it would be between citizens and the elected representatives on who has made better choices in the allocation of tax revenues, about whose ‘grantees’ have met targets and have earned higher rates of beneficiary satisfaction. This competition would have significant ramifications for the working of our representative democracy. I leave this exploration for another time, but the prospects are tantalisingly momentous.

Citizen Choice II

Unlike the Citizen Choice I model, the second model limits the competition between CSOs and the state to the arena of welfare or self-help support. The state provision of public goods could face competition only indirectly.

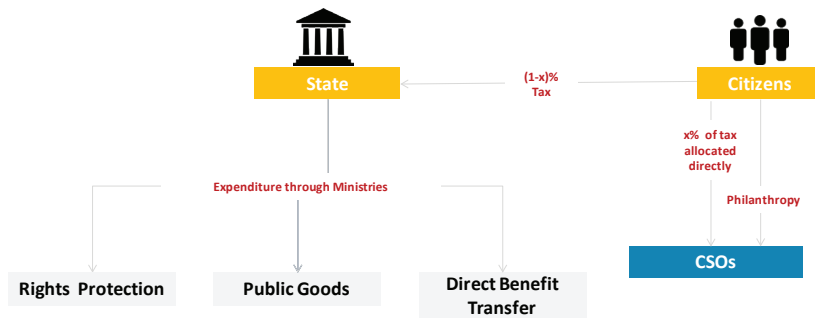


Figure 6: Proposed Model 1.2.1: Welfare Schemes Converted into DBT

Moving from Subsidies to Direct Benefit Transfers

The first step in this model is to convert all subsidies and grants into direct benefit transfers (DBTs). The welfare or self-help support would be fully converted to a DBT regime. The state would continue the other two functions of rights protection and public goods provision as usual.

Moving from DBT to DST (Direct Sustenance Transfer)

Once all the existing welfare/self-help programmes are converted to DBT, the government would begin to restrict its provision of public goods to actual goods and services, and it would stop giving any monetary support under the public goods provision. All programmes that transfer money—like social security, unemployment benefits, etc— would be clubbed under one head. The government would continue to run, if

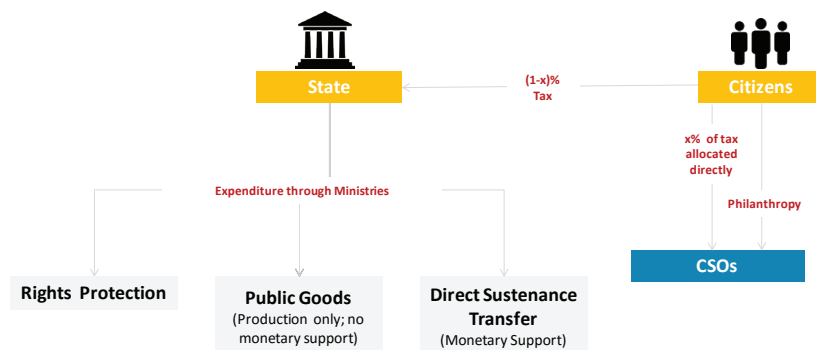


Figure 7: Proposed Model 1.2.2: Conversion of DBT into DST

it chooses, schools and colleges, clinics and hospitals, water supply, and sanitation but all other non-good, non-service support from the government would stop. All the rest of the support would be covered by the direct sustenance transfer (DST).

The DST does face some of the same issues currently debated under basic income guarantee (BIG) or universal basic income (UBI). In comparison to the popular versions of BIG and UBI, DST is a rather distinct option.¹⁷ I just posit the claim of the uniqueness of DST and leave the task of comparative analysis of BIG, UBI and DST to others. The DST seems closer to the original Milton Friedman idea of a negative income tax.¹⁸

The last point is to describe the working of the sustenance and self-help support model from the point of view of the beneficiary. This would make it clearer how the new system would work and how it incorporates the remaining principles of a good social safety net.

To receive support, a person or family would apply on a simple form by stating their current situation and the type and amount of support they would like. The selection system would be based on self-declaration with a negative list. The negative list would specify those who do not qualify for support and could include taxpayers, owners of vehicles, foreign travellers

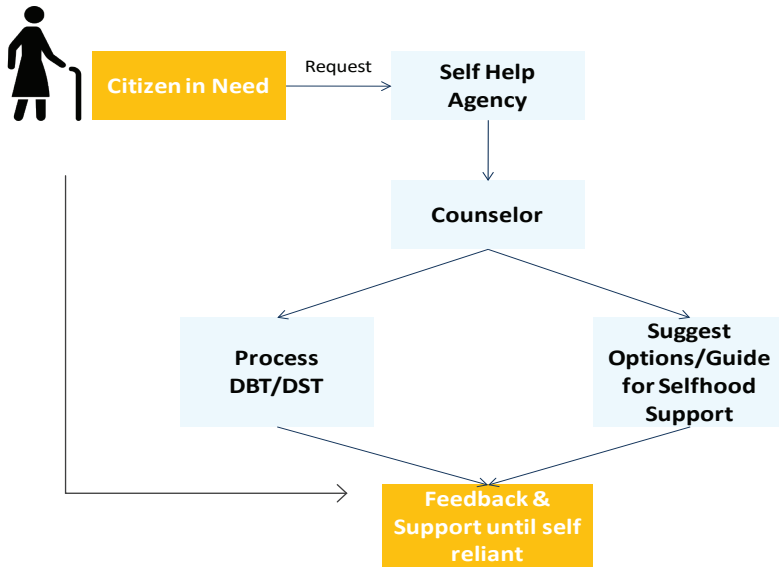


Figure 8: How does Citizen Access Selfhood Support?

and so on. The basic idea is to make sure that whoever asks for support gets the support and only the people on a specific list are barred.

Conclusion

There is no doubt that the current state-dominated welfare system is unattractive and unviable. The resultant dependency, dehumanisation, financial bankruptcy, and social pathologies are simply too high a price. It is also clear that to achieve the goal of *swavalamban*, we must provide both sustenance and selfhood support and the role of CSOs would have to expand dramatically. This can happen effectively only by democratising the power to allocate tax revenues and by giving citizens at least as equal a role as assigned to elected representatives. Two models in the paper encapsulate these ideas as well as the principles of a good welfare system. I fervently hope that these models trigger a different line of inquiry into the nature of a sound self-help system or of a broader social safety net.

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Liberalism for Whom?

Confessions of an Incurable Liberal

BARUN S MITRA

Not too long ago, liberalism was the basis for political action across much of the world. Generations of leaders striving to break out of imperial or colonial rule were inspired by the idealism provided by a liberal worldview. Liberal values of individual rights protected by rule of law inspired millions to aspire for political liberty and economic freedom.

Liberalism won much of the political arguments in the twentieth century. Some of the key liberal ideas on social and economic freedoms were adopted by many major political parties across the world, cutting across apparent ideological divides. In India, there are shades of liberal ideas in the agenda of virtually every major political formation. Yet, except for a brief interlude in the 1960s in the form of the Swatantra Party, there has been hardly any significant liberal force on the Indian political landscape.

Losing the Political Plot

Today, it may not be far-fetched to say that liberalism as a political force faces both ideological and political crisis. The challenge has perhaps been compounded by the general cynicism towards politics.

Liberals have been squeezed from the Left by political parties who have adopted some elements of social liberalism, pluralism, tolerance, among others. On the Right, parties have adopted a range of ideas related to

market reforms and international trade. In any case, it seems clear that the liberal political space has been taken over by others and liberals have not really been able to hold their ground politically.

No Escape from Politics

With the prevailing political cynicism and the shrinking political space, the liberal response has reflected a withdrawal from politics. Some have focused on concrete policy advocacy or resorted to intellectual discourse quite remote from real political action. Other liberals have engaged in education and awareness campaigns in an attempt to change the general mindset and cultural outlook in the longer term.

These are definitely worthwhile initiatives in any society but they cannot really be a substitute for political engagement with people as citizens. In any human society, whether open and democratic or closed and authoritarian, there is no alternative to politics to manage the affairs of the society. Irrespective of whether a society is governed by an absolute monarch or supreme leader, the elites in a one party system or competing interests in a multi-party democracy, in all human societies politics is the most fundamental way of organising governance and society.

The courts of absolute monarchs were often full of political maneuverings and intrigues, to gain the attention of the ruler and secure privileges! Just as common has been the tussle between various factions even within one party or one family regime.

Second-Hand Dealers of Ideas

Politicians, typically, are second-hand dealers of ideas, to paraphrase Nobel laureate F.A. Hayek.¹ Many liberals took this idea to heart and set about trying to sell their ideas to other politicians. Soon, a gulf emerged between the liberal attempts to market their ideals to politicians and the politicians' interest.

Liberals focused on ideas, and tended to look down upon the politician's inability or unwillingness to accept those ideas in totality. On the other

hand, the politician looked upon liberal peddlers of ideas as impractical idealist. The politician knew that the liberals, on their own, would not be able to market their ideas to the masses. The liberals rarely realised the political limits of their own capacities, and tended to blame the politicians for unsavoury compromises or accused them of lack of political will for failing to adopt a piece of public policy with liberal orientation.

Science of Politics

Politics is similar to applied sciences, akin to what engineering is to physical sciences. Science provides the theoretical framework, together with its laws and hypotheses. But every engineer knows that when these idealised laws are applied to the real world, there is always an efficiency loss. For instance, the famous laws of Newton, when applied to real world invariably experience losses due to friction. An engineer looks at such efficiency losses not as an illustration of the failure of the laws of physics, but appreciates the technical limitations within which he has to work, and strives to find ways to continually reduce the losses. An economist looks at such losses as an inevitable trade-off between price and performance, that is, the cost of delivering a product or service, compared to the costs of improving the technological performance and the quality of the product.

The Art of the Possible

If an idea is socially not possible to implement, with little prospect for potential political dividend, then a political leader is unlikely to find the idea relevant. He or she may decide not to invest political capital behind an idea that does not sound attractive. The problem is not necessarily in the idea itself but in one's lack of appreciation of the social and political context that is likely to shape the scope and extent to which the idea might be acceptable, that is, efficiency loss.

This loss of efficiency is quite distinct from any compromise in terms of ideals. The loss of efficiency in engineering applications due to technical or economic grounds does not undermine any basic laws of science. It only underscores the limits of available technology and economic capacity. At

the same time, it provides the incentive for scientists, entrepreneurs and investors to explore ways to improve upon the existing limits. On the other hand, a compromise in terms of ideals or principles would be if the relevant laws of science are deliberately ignored, or if a low-performance product is sought to be touted as the best that technology can produce or money can buy.

The parallel is equally applicable to political principles. Applicability of a political principle is shaped by the social acceptability and economic viability of the proposal. The onus is then on the political scientists to explain the situation, and political entrepreneurs to assess whether it is worthwhile to invest in ways to make the idea socially more acceptable and economically more viable.

Political Entrepreneur

An entrepreneur is an innovator with a passion for his or her idea. He seeks to discover a new need among potential customers, finds the idea that may meet that need, brings together previously disparate components to tailor a product that meets that need, convinces investors to back the venture, assembles a team of people with relevant skill sets, and then markets the product with credibility and conviction.

Success is not assured, and the idea and the product may or may not find acceptance but the entrepreneurial journey seems to be very similar. The two critical components that most successful entrepreneurs display are a high measure of self-belief and a confidence in the capacity of the customers to appreciate the value of the product.

An entrepreneur is distinct from a businessman. The latter too provides value to the consumers but generally operates within the prevailing framework. The entrepreneur seeks to introduce a new paradigm and is willing to risk unsettling the existing framework. Naturally, the entrepreneurs are fewer while businessmen are predominant in the market place, even though both are driven by the profit motive.

Political entrepreneurs follow the same trend. Like the theoretical scientist, there are political ideologues who try to analyse the social-political context in order to generate some key ideals and provide an ethical framework for understanding the contemporary context. The political entrepreneurs then, seek to apply some of the ideals to contemporary context to create specific narratives that seek to tap in to some latent angst or stimulate certain aspirations. These narratives are marketed among wider sections of people. Political entrepreneurs typically provide the impetus for a narrative that aims to mobilise millions.

Run of the mill politicians are like businessmen, looking for any opportunity that may help them nurture and build their local network of political patronage and services. For this lot, political ideology is only an instrument to sustain their local power base and they are easily able to swing to the pendulum of prevailing political opinion, in search of political dividends. Pragmatism and compromise, devoid of any commitment to principles, are the features of this category of people.

Political Idealism

Politics is primarily about people, and all politics is local. Squeezed out of the political space, many liberals seem to have concluded that liberal principles and value are not for the masses and, therefore, lost the crusading spirit that exemplified the liberal a century or so ago.

There is a neat little logical trap that many liberals seem to have accepted. Ordinary people have little capacity to access and appreciate liberal principles. In modern democracies, politics is primarily about pandering to populist sentiments. Therefore, politics based on liberal principles is not viable. The conclusion drawn is that liberalism cannot be popular since people are ignorant. Few have gone on to question the advisability of universal franchise in a modern democracy.

There are two interesting implications that flow from this line of thinking—one, an absolute conviction in the liberal ideals, and, two, a seemingly high level of disdain for the political acumen of the common man.

Faced with bleak political prospects, many liberals naturally focused on influencing policy through analysis and advocacy. At times, some elements of those policies were accepted by the political leadership and enacted by the Parliament. However, the liberals could claim very little political credit. It was the wider political and economic context that provided the rationale for the adoption of such policies.

Politics of Reforms

The economic liberalisation of 1991 is perhaps the best instance when quite a few economic liberals worked with the government to deal with the balance of payment crisis. The reforms initiated since the 1990s had a significant impact on different aspects of economic life in the country. Yet hardly any political or social credit was given to the liberal ideals, and liberals have remained on the margins of Indian political life.

While economic analysts have looked at the balance of payment crisis as the trigger for significant market-oriented reforms in the early 1990s, not enough attention seems to have been paid to understand the emerging political context. The period also marked the end of political dominance of Congress, and Indian politics became intensely competitive. It is probably not a coincidence that incremental economic reforms continued right through the next 25 years under various coalition governments.

Political competition provided citizens an opportunity to express their dissatisfaction, and the impetus for adoption of economic policies that promised to improve economic performance, at least at the margin.

Needless to say, such marginal and incremental reforms enabled some to enjoy enormous powers of patronage and extract huge rents. Consequently, the outcry over political corruption at the top became a shot-hand for citizens' disgust at persistent petty corruption. The daily corruption experienced by citizens in their routine interaction with government agencies was a result of incremental reforms that did not quickly dismantle the discretionary powers of bureaucracy, particularly at the lower levels.

Economic liberalisers did not get much credit for the reforms that did happen, but got blamed for the problems in areas where hardly any reforms had taken place. This was a consequence of the lack of a distinct liberal identity, and failure to clearly communicate a liberal economic vision, which could have helped citizens get a proper perspective of the economic reforms and its limitations.

A Few Brave Souls

There have been a few brave liberals who have taken the plunge into politics over the past few decades. Some joined the existing political parties, hoping to wield influence and have more liberal and market-oriented policies adopted. Their success has been rather limited. They could neither assess the political viability of the proposed policies nor demonstrate the political capital that would accrue from adoption of the suggested policies.

These liberals were generally professionally successful, with unblemished personal integrity, and some of them were well-known public figures. They wanted to contribute toward building a better India by joining politics and introducing better policies. However, their professional success, personal credibility and even fame, did not automatically generate any political capital for them. Perhaps they did not give much thought to the need for demonstrating political capital, and personal capital is no substitute for political capital.

Even fewer brave liberals sought to chart a liberal political course by launching political start-ups. Their idealism and enthusiasm were palpable, and their organisational capacities highly commendable. Some of them led successful movements on specific issues, and even got the political authorities to adopt certain changes in policy. However, they failed to find that common political idea that would excite and energise a wide cross-section of people, and so could not generate the level of political capital that was necessary to mount a serious political challenge.

Sharad Joshi, founder of Shetkari Sanghathan and the Swatantra Bharat Party in Maharashtra, and Dr. Jayaprakash Narayan of the Lok Satta

Party in Andhra Pradesh, were pioneers who sought to break new political ground. For politically inclined liberals, it would be indeed very valuable to research and analyse the strengths and weaknesses of their initiatives. Such a study could provide some guideposts to the next generation of liberal political activists.

Scarred by the electoral politics, some of the liberal activists have regretted the voter apathy, and the influence of money, muscle and populist promises peddled by mainstream political outfits. Some highlighted the nature of the first-past-the-post electoral system, which they felt disadvantaged newer and smaller political parties.

What is interesting, however, is that hardly any of the liberal political activists felt that they had failed to craft a credible political message in a language and form that citizens could easily relate to and act upon. Such a message could potentially go viral among the citizens, spreading awareness as well as building political support.

The Ideal Politician

In India, the first successful political entrepreneur in the modern era was M. K. Gandhi, Barrister-at-Law. The Congress before Gandhi was largely a debating society and a petition club, constituted of elite sections of society. The club included Indians and Europeans, many of whom were educated in England and/or schooled in political thoughts that had emerged in Europe in the eighteenth and nineteenth centuries. They wanted similar ideas and practices to be adopted in India as well.

People like Dadabhai Naoroji, S. N. Bannerjea, Lala Lajpat Rai, Bal Gangadhar Tilak, Bipin Chandra Pal, Gopal Krishna Gokhale and Motilal Nehru were among the many early political entrepreneurs who tried in their own ways to promote the various shades of Indian nationalism to the wider audience in the cultural, economic, intellectual and political spheres. But it was Gandhi who not only grasped the essential ideals of Indian nationalism but also sincerely went about discovering the needs, challenges and aspirations of ordinary Indians. From his days in

Champaran in 1917 to his travels in riot-torn Bengal in 1946, just before Partition and Independence, Gandhi continuously engaged with people and learned about the keys that could open the hearts of people under most challenging circumstances. This enabled him to craft his language in a manner that connected with the masses with a depth of credibility that has not been seen since his days.

What made Gandhi a political pioneer was his ability to come up with political campaigns that people could easily relate to and connect with. He was able to mobilise millions at a time when mass media did not exist, and social media constituted only of word of mouth. Gandhi demonstrated the power of ideas, and superbly crafted messages to lift the masses. Among his many political campaigns, three truly stand out. The Non-Cooperation Movement in the early 1920s, the Salt Satyagraha in 1930, and the Quit India Movement in 1942. To use today's parlance, Gandhi's campaigns truly went viral, and that too at a time when mass media barely existed, and the word of mouth constituted the social media.

Gandhi underscored the fundamental human values of truth, justice, and non-violence, and provided an ethical framework that highlighted the political ideals. He carefully chose the specific issue for each campaign, which people could easily relate to and identify with, and he crafted the strategy enabling people to actively participate in these campaigns, which not only helped build political awareness but also empowered them with self-belief.

The key to Gandhi's political success was not just his principles, policies and practices but equally importantly, his belief in people, his empathy for his fellow human beings and his confidence in the inherent potential in ordinary persons to strive for extraordinary feats. Gandhi exercised enormous moral authority over his countrymen. The source of that authority lay in his unbound faith in human potential. The people reciprocated by trying to rise to the standard Gandhi was urging them to achieve.

Gandhi democratised politics and demonstrated that ideals and ideas matter to the people. Today, most political leaders prefer to follow the

opinion polls of the day rather than sticking their neck out to shape that opinion. Gandhi's politics is virtually a manual for effective political activism, particularly for the liberals.

Prospect for Liberalism

Liberals, with their intrinsic focus on principles, may find in Gandhi the skills needed to transform broad principles into concrete applications. However, even without really going into Gandhi's political philosophy, it is possible to draw the lessons from Gandhi on possible ways to apply political ideals to actual politics. Gandhi provides the best lesson on how to bridge the gulf between science of politics and its applications.

Liberals have been strong on political principles. Policy experts with liberal inclinations have proposed a range of public policies that offers some of the most creative ways to deal with contemporary challenges such as corruption and reservation, employment and economic opportunities, identity politics and populist hand-outs, rule of law and economic growth, fiscal prudence and sound money, and more.

Yet the liberals have been spectacularly ineffective in figuring out ways of making their policy ideas politically viable. A fatal flaw that has dogged the liberals is the gulf between their principled respect for individual rights and recognition of human dignity, on the one hand, while largely holding the common man responsible for their political ignorance and economic gullibility for many of the ills of society, on the other.

Liberals need to recognise that political principles and policy proposals do not count for much without adequate political capital. The only way to build that capital is to engage with people, discover their aspirations and challenges, and then develop creative strategies to inspire and empower people to help usher in the kind of reforms that the country has been waiting for.

The people, particularly the poor, in India are not necessarily destined to be the cannon fodder for conventional politics. Most of them enjoy neither

the protection of rule of law, nor receive the promised benefits of various welfare measures. They bear the brunt of social and economic injustice. For many, their only experience of the government has been of the heavy burden that its agents impose on their life on a daily basis.

Liberals need to try and identify with this natural political constituency, and recognise the enormous human potential that is waiting to be unshackled. Huge political capital may be unlocked if the people are inspired to 'be the change they want to see'. For instance, rule of law is the cornerstone of any liberal political framework. Recognition and protection of property rights is the basis of political societies and market economy. Land has emerged at the top of the political agenda over the past decade. It is an issue that affects virtually every Indian, rich or poor. Land and real estate is also the single biggest source of corruption. Could land and property rights provide an opportunity to a liberal entrepreneur to reach out to a wide section of the people?

Any change can only happen through politics. And in open societies, political change is legitimate only when they are endorsed by broad sections of society in a participative process.

For decades the liberals were squeezed out of the political space, with the Left and the Right adopting many of the social and economic programmes that had originated from the liberals. Suddenly, however, there seems to be a convergence between the political Left and the Right on a range of illiberal social and economic initiatives. No amount of catchy slogans is likely to be able to camouflage this political convergence for long.

This is potentially a huge opportunity for liberal politics. It is time for the liberal political entrepreneur to be ready to seize the window of opportunity that is opening up.

NOTES AND REFERENCES

- ¹ The Intellectuals and Socialism by F.A. Hayek [Reprinted from The University of Chicago Law Review (Spring 1949)], pp. 417-420, 421-423, 425-433, by permission of the author and the publisher, The University of Chicago Press; George B. de Huszar ed., The Intellectuals: A Controversial Portrait (Glencoe, Illinois: The Free Press, 1960) pp. 371-84. The pagination of this edition corresponds to the Huszar edited volume.] https://mises.org/sites/default/files/Intellectuals%20and%20Socialism_4.pdf.

The Problem with Liberal Parties

JAITHIRTH RAO

The early and much-mourned demise of the Swatantra Party in India has always been a matter not just of anxious concern on the part of classical liberals. It has also remained a puzzle. What went wrong? Was it inevitable or was it something that could have been avoided by decisive actions? Why has it been so difficult for another version of this party to reappear on the Indian electoral scene?

The traditional explanation has been that a genuinely liberal position that supports a minimalist non-interventionist state and agency for individuals to enter into free unfettered contracts, and leverage a free market to optimise their individual objective functions is at best a theoretical construct. People may buy into this position in moments of lucidity. But the seductive embrace of parties who promise to use the state to selectively dole out goodies and patronage will always end up being more popular because in fact it is more populist. This is aggravated in countries like India where poverty and deprivation exist on a large scale. Hence, the need for every party to swear by redistributive ‘socialism’ rather than individual initiative. While it may be true, this assertion is based more on a theoretical understanding of what the so-called ‘populace’ wants and has wanted from ancient Athens down to today. The promise to “take from Peter and give to Paul” must always be popular with the Pauls of the world. As long as the Pauls are in majority, even if only a temporary one, this political strategy must prevail in electoral democracies.

In practice though, electoral politics rarely seems to be fought on simple economic issues including ones such as expropriating from Peters to benefit Pauls. To my mind, that might be the fatal weakness of the

classical liberal political position. Some wandering down the by-lines of history may help.

From the late seventeenth century till the early twentieth century, Liberal Whigs were a strong force in British politics. They stood for free trade, for individual initiative and a minimalist state. But is that why they were successful? My take is that their electoral success had much more to do with what we today refer to as 'identity' politics, rather than with their economic positions or libertarian principles. It is difficult to think of a Low Church Protestant or a Methodist or a Quaker being a Tory supporter. Their 'identity' ensured that they supported Whigs, irrespective of whether they believed in free trade or not. Symmetrically, if one was a supporter of the Anglican High Church, there was no option but to be a Tory voter. One could even argue that economic ideologies were not derived from cherished first principles, but in fact derived from the need to cater to the constituencies that had been derived from identity politics in the first place. The Tories opposed free trade because the import of cheap foreign corn would hurt their high church rural backers. The Whigs liked cheap foreign corn because their Low Church and non-conformist mercantile backers benefited by the same.

In other words, electoral politics starts with non-economic, even primordial identities. The economic and philosophical gloss that subsequently permeates the party's ideology is derivative of the identity-based constituency's needs, rather than the other way around. If this is even partly true of the most successful classical liberal political party of the last three hundred years, then we really need to pause and take a deep breath. How then does one explain the twentieth century Conservative-Labour divide in British politics that seems to be based on an economic class divide rather than on social or religious identities? One does not know enough to be able to comment on this. But to dismiss identity issues in favor of class-based analysis seems to again be a little too hasty.

If one only looks at the geographic strengths of the Labour Party (like in The Midlands) and the Conservative Party (southern England), one

can almost see a Low Church-High Church divide of earlier times. It is also not accidental that non-white immigrant minorities, be they Afro-Caribbean or Sub-Continental in origin, have felt that their 'identity' is best protected and reflected by Labour. On the other hand, nativist English groups, even the extremist ones like British National Party and UK Independence Party have really been children born out of the Tory womb. Enoch Powell's famous or infamous speech was an early call to fall back on a traditional English cultural identity. The speech did not contain any mention of tax rates or free enterprise. Can one then make a case that being a Tory supporter today is primarily about having a sense of traditional Englishness about oneself and not really about having an equally strong position on tax rates or the role of the National Health Service? It is interesting to note that having pretty much conceded the electoral support of immigrant Pakistani and Bangladeshi voters to Labour, the Tories are trying to see if they can fish successfully in the more affluent Indian immigrant voter group and persuade them to adopt a faux Englishness about themselves?

When one turns to America, even more intriguing questions can get asked. The Republican Party of Abraham Lincoln was the 'party against slavery'. It was the political offspring of the American Whig Party and can be thought of as being as close as possible to the classical liberal position. But one can argue that it was equally a party of an anti-slavery non-conformist Christian North against a pro-slavery, largely Episcopalian Virginia and the Carolinas. It does not seem accidental that Republicans were very strong in Pennsylvania, the home of the Quakers and in Massachusetts, the home of the Puritans. As it turns out, it was relatively weak in New York, which had strong Episcopalian traditions and also immigrants who were not part of the prevalent identity mosaic in the U.S. Once again, did so-called primordial religious and social identity issues precede the subsequent rationalisation of economic and political principles?

In post-Reconstruction America, while Presidential candidates did make strong speeches on the desirability of the gold or silver standards and while tariffs were important election issues, one notices the gradual evolution (or was it reinstatement) of identity issues even when it resulted

in inexplicable coalitions. The Republican Party pretty much moved to be the voice of the dominant northern white Protestants. The Democrats evolved into the strangest of mish-mashes with some claim to them being based on economic interests, but in fact again moving towards an assertion of identities. By the time of Franklin D. Roosevelt's nomination in 1932, his rainbow coalition included segregationist southern whites, marginal northern immigrant groups (for instance, Irish, Italian, Jewish) and even the small, enfranchised Black population in the north. Even when the Republicans put up a Catholic presidential candidate, they continued to be seen as a northern white Protestant party.

After Nixon's 1968 campaign, everything changed and paradoxically the politics of identity got even more entrenched in modern America. The Republican Party steadily emerged as a party dominated by southern whites with a dash of mid-western whites thrown in. The Democrats maintained a rainbow that pretty much included 'all others'. While there have been prominent Black Republicans, the fact is that the overwhelming majority of African-Americans vote for the Democratic party, even when the candidates are southern whites (for example, Carter, Clinton). Similarly, an overwhelming majority of southern whites vote Republican and it is not at all clear that the tax policies of the party are driving this decision. My son Vijay, who has been active in Republican Party politics has repeatedly told me that only New York Republicans (who cannot win anyway) worry about taxes, deficits, free enterprise, and so on. The rank-and-file Republican Party supporters are interested in only three issues: opposition to abortion (euphemistically referred to as the Right to Life), support for guns (ostentatiously presented as a defence of the Bill of Rights), and opposition to legalisation of the status of illegal immigrants (positioned as giving a reward to law-breakers).

Two of the three issues mentioned above are closely linked to perceived social and religious identities. A fundamentalist Christian can hardly support abortion. White nativists can by no means support legalisation of the status of a large Hispanic underclass. The issue of guns is a more complex one—the identity factor here may be that of the masculine gender. Again the pattern of symmetry is quite clear. Those who are not

strong Christians can and do support abortion (euphemistically describing it as a woman's right of choice). Descendants of newer, and many times non-white, immigrant groups find it easier to support changing the status of illegal immigrants as they see no cultural threat if the Hispanic population increases in the U.S. On gender and newer identity issues, one must assume that the overwhelming majority of American gays vote Democrat. They could hardly vote Republican, given the latter's opposition to homosexuality—a stand which is central to the doctrine of the backbone of today's Republican Party, the fundamentalist Christian groups. The attempts by some Republican leaders (for example, George W. Bush, McCain) to woo Hispanic voters by supporting a compromise legislation on immigration issues was loudly and clamorously beaten down by the rest of the party. Political Parties need a strong base of hard core supporters. It appears that the easiest way, and perhaps the only way to get and retain such supporters is to fall back on primordial social and religious identities. Some commentators have argued that Nixon made a devil's bargain with southern white proto-segregationists and religious fundamentalists and this bargain continues to haunt the party he left behind. Nixon would probably counter that without this strategy there very well might not have been any Republican Party left!

Konrad Adenauer, in post-1945 West Germany, can be considered one of the finest leaders of the twentieth century in the classical liberal tradition. He had to overcome the horrific effects of the Nazi nightmare. He and his Finance Minister, Ludwig Erhard, literally liberated the initiative of Germans and created what is widely acknowledged as an economic miracle. The irony is that even a fine liberal like Adenauer had to fall back on social and religious identity politics in order to run his party. The very name of his party 'Christian Democrat' had a clear identity marker. Incidentally, this party was not seen as the flag-bearer for all Christians. It was seen as a party of and for Protestants. In Catholic-majority Bavaria, Adenauer had to ally himself with a local party that had a Bavarian Catholic identity—the CSU.

In post-war Japan, the leading political party has called itself the Liberal Democratic Party (LDP), as clear and as lucid as it is possible to be in a

name. By and large, this party has been a beacon of liberalism. However, many LDP leaders have felt it necessary to bolster their Japanese nationalist identity credentials by visiting the controversial Yasukuni shrine. Here again, the need for what is almost a devil's pact with the primordial forces of identity seems necessary. It once again emphasises the fact that liberal parties cannot have hard core followers and party faithful unless they make some kind of compromise on identity issues. Whether this influences other voters (those who may vote liberal, but who may not be party members) is of course not all that clear.

Coming to India and the fate of the Swatantra Party, one can see the identity conundrum playing out very well. The base membership and party faithful of virtually all political parties in India are derived from regional, caste-based or religious identity groups. Given the Indian fascination with endless fragmentation, one can see the identities atomising into smaller units as we go along. Before independence, the Congress was seen as a Hindu party, and possibly a caste Hindu party, irrespective of what the Congress leaders themselves might have wanted to believe. The enormous success of the Muslim League in the 1946 elections in almost all provinces would suggest that Muslim voters had decided as to who would represent them—the Muslim League leaders. Ambedkar's distrust of the Congress stemmed from his fear that the Congress strategy would result in the Dalit identity being subsumed in a broader Hindu framework, without actual Dalit liberation or empowerment at the grassroots level. The Sikhs preferred to rely on their own Akali party. Even the small Indian Christian community did not buy into the Congress claim to represent all identity groups. The Indian Christian Federation actually supported the Muslim League and partition. The Justice Party in the Madras Presidency and the Non-Brahman Party in the Bombay Presidency had an identity 'against' Brahmins and one 'for' all the rest!

After independence, the Congress tried and succeeded in pulling off a rainbow strategy across multiple, often contending, identities in a manner very similar to FDR's 1932 coalition in the U.S. But virtually all opposition parties, with the exception of the Swatantra party, had to fall back on identity-based organisations. The Communists in Bengal and Kerala

based themselves on regional identities. The Communists in Kerala went one step further and in fact, whether they liked it or not, became a party of and for Ezhavas. In recent times, in Tripura, the Communist Party is seen as a Bengali outfit. The Jana Sangh made no bones about a Hindi-Hindu identity. The Dravidar Kazhagam and the Dravida Munnetra Kazhagam in Tamil Nadu based themselves on a Dravidian-Tamilian-non-Brahmin identity. As the Congress steadily made inroads into Mazhabi and other Sikh groups, the Akalis got defined as a Jat Sikh party. The National Conference, again despite its pretensions, remained and remains a Kashmir Valley Muslim party. Under Lohia's leadership, the socialists defined themselves as an OBC party.

Today, the situation is much clearer as we move from state to state. The Kerala Congress is a Kerala Syrian Christian Party. The Kerala Muslim League is a Kerala Muslim party. In Karnataka, the present Janata is largely seen as a Vokkaliga Party. While the BJP has a broader presence, every observer concedes that today it is the party that represents Lingayats. Devraj Urs for a brief time tried to work out a mini rainbow of all castes other than Vokkaligas and Lingayats. To some extent, the Congress in Karnataka today under Siddharamiah is following Urs' strategy. In Tamil Nadu, both the Dravidian parties are positioned as non-Brahmin strongholds, with an emphasis on upper non-Brahmin castes. Velalars, Dalits and Gounders have founded parties that largely represent each of them. The YSR Congress in Andhra is seen as Reddy-dominated, while the Telugu Desam Party is seen as Kamma-dominated. In Maharashtra, the Nationalist Congress Party is clearly a Maratha Party; the rainbow Congress may not be a Maratha party, but it is definitely a Maratha-dominated party; the Shiv Sena, while claiming broad Maharashtrian support, is seen as a Chandraseniya Kayastha Prabhu (CKP) community-led party. In Telengana and in Maharashtra, the Majlis-e-Ittehadul Muslimeen (MIM) is seen as the party of Muslims who derive their political and intellectual descent from the Razakars of the erstwhile Nizam state. In Gujarat, the Congress was successful for years with a Kshatriyas-Harijan-Adivasi-Muslim semi-rainbow. In UP, Charan Singh formed his own party that was seen as a Jat outfit. Today's Samajwadi and Bahujan Samaj Parties are

seen as Yadav and Dalit-dominated organizations. In today's Bihar, the Rashtriya Janata Dal is a plain and simple Yadav party, and all the other parties there are desperately trying to figure out their identities. The Trinamool Congress in West Bengal and the BJD in Odhisa have taken upon themselves the mantle of preserving aggressive Bengali and Odiya regional identities. The Asom Gana Parishad for some time managed to stand up as the champion of Assamese/Ahom people. The BJP has tried to move away from a strictly Hindi-Hindu identity by playing down the emphasis on the Hindi language. This has helped the party in Karnataka and Assam. But it cannot, and possibly does not want to, give up on the associations with Hindutva. The Congress tends to play the identity card differently in different states and in different elections. Nehru genuinely tried to imitate FDR. He successfully managed to gloss over underlying identity contradictions for many years. His daughter and grandson flirted with different identities as it suited their convenience—the Kshatriya, Harijan, Adivasi, and Muslim (KHAM) in Gujarat, the Anti-Jat Sikh in Punjab, the Hindu in Jammu, and so on.

From the above, it seems almost a self-evident empirical fact that in democracies, political parties in order to have a meaningful presence, must fall back on the identity factor. The identity factor can be regional, linguistic, caste-based or religious. Even rainbow coalitions need an underlying set of different colours of the identity spectrum in order to set themselves up. Ideally, rainbow coalitions are built around groups who perceive themselves as minorities with a grievance. While a couple of data points do not make the empirical evidence self-evident, it is interesting to see the parallels between FDR's Democratic Party and Nehru's Congress Party. Both appealed to a variety of minorities. The Southern Whites were by no means a minority in their own region. But they felt a sense of victimhood vis-a-vis northern Republicans. The immigrant Irish, Italian and Jewish communities in the north as well as African-Americans in the north were willing to go along as members of a coalition that included segregationist southern whites, not because they shared any principles, but they shared a perceived sense of victimhood vis-a-vis northern mainstream white Protestants who backed the Republican party.

The appeal that the Congress has for ‘minorities in situ’, if you will, strikes a parallel. The ‘Hindustanis’, as the north Indians are called in Bengal, have always preferred the Congress to the Communists, who they perceived as a regional Bengali party. Similarly, Mazhabi Sikhs have preferred the Congress to the Akalis who are seen as a Jat Sikh party. The Congress after 1947 took on the Muslim League’s mantle apropos of Indian Muslims. What is fascinating is that the Congress has succeeded in leveraging Muslim identity concerns only where Muslims are a minority. In Hyderabad City, where Muslims are in a majority, they have preferred the MIM to the Congress; in Malappuram District, they have preferred the Muslim League and now in parts of Assam, they prefer the All India United Democratic Front (AIUDF).

It is only when the minorities are somewhat scattered and unable to fall back effectively and efficiently on their own minority identity, that they decide to support the so-called rainbow parties. For what it is worth (again based on limited data points), it appears that rainbow coalition parties operate in the left-of-centre range as far as economic issues go. This was true of FDR’s party and of Nehru’s party. Outfits like the Jana Sangh and the BJP try to subsume smaller identities. But they do it only by creating and sustaining a larger one. The similarity between the Republican Party’s current support base of ‘ordinary White Americans’ and the BJP’s support base of ‘ordinary Hindus’ is quite striking. While there is no great clarity on economic issues (for example, Trump, the current Republican front-runner does not believe in free trade; many BJP stalwarts do not support foreign direct investment or genetically-modified crops), nevertheless on balance these parties must be seen as somewhat right-of-centre. The interesting thing is that in the entire discourse, the issue of liberal political beliefs or agency for an individual as against agency for the real or imagined group simply does not get discussed. Contrast this with valiant attempt by the Swatantra Party to fight the permit-license raj, to campaign for economic and political liberty and to allow its representatives on matters of identity (for example, the language controversy) to actually vote however they liked without a party whip. One cannot but view this attempt as destined to fail which it did. Incidentally, despite the self-image of the Swatantra

Party, when Nehru criticised it as a Maharajas party, the message in Gujarat was that it was a Ksahtriya party and in Rajasthan that it was a Rajput party, making it unlikely that it could win much support from Lohanas or Jats in those states, for instance.

The classical liberals have a few choices. They can imitate Nixon and make a pact with the southern Christian groups as the Republicans have done. The danger is that one never knows which is the dog and which the tail. Pro-market liberals in India, who have hitched themselves with the BJP, face this acute dilemma even as we speak, every time the subject of the debate moves from Goods and Services Tax, FDI, privatisation, ease of doing business, and such like, to beef, cow protection and so on. Nevertheless, many genuine liberals stay within the Republican Party and likewise within the BJP hoping to influence matters from within and at least achieve their agenda partially. The second choice is to withdraw from active party politics and use vehicles like think tanks, journals and other groups in order to make an impact on the national agenda. One could argue that S.V. Raju, with his Freedom First and the Indian Liberal movement, chose this option. The third option is to join the rainbow identity party and try to influence it from within. A market-friendly Larry Summers in the U.S. trying to influence the Democrats or a Manmohan-Chidambaram combine in India trying to influence the Congress come to mind. They too are frequently put in embarrassing spots as their chosen parties pursue statist and collectivist policies as against support for individual freedom and initiative.

But the chances that a non-identity based classical liberal party will actually have millions of passionate members and will win at the hustings without the veneer of identity politics in any electoral democracy—be it in India, the U.S., Germany, Japan, or for that matter even in Britain—seems a very low probability event. And in politics as elsewhere, realism must prevail.

S V Raju: Keeping the Flame of Liberalism Alive

JOHN, LORD ALDERDICE

Although I had known about him and the Indian Liberal Group for some time, I first met S.V. Raju in New Delhi in September, 2008. I had been President of Liberal International for some time and was troubled by the absence of a serious liberal presence from India at our conferences. I had also become even more conscious of how much Indian liberals had to contribute to our global intellectual life after my time on the Commonwealth Commission on Respect and Understanding under the chairmanship of Nobel Laureate, Amartya Sen. Working with him during 2006 and 2007 in the writing of *Civil Paths to Peace* was an inspiration. I had also become close to Navnit, Lord Dholakia, my Liberal Democrat colleague in the House of Lords, and we talked together about the need to take an initiative to rebuild and energise the relationship with Indian liberal colleagues. At this point I was in contact with the Friedrich Naumann Stiftung (FNS), the German Liberal Foundation that has been central to so many important liberal initiatives around the world. The FNS South Asia Regional Director at that time was Dr. Rene Klaff and he organised for me to visit Sri Lanka to deliver the 11th Dudley Senanayake Lecture in Colombo on 'Risks, Rights and Respect – Essential Elements of the Irish Peace Process'. This was a very relevant subject at the time because of the long-standing terrorism and violence in Sri Lanka where liberals were keen to encourage the government to explore peace talks with the Tamil Tigers. My own background of many years spent in contributing to the Irish Peace Process seemed a useful and relevant contribution to the debate in Sri Lanka and the visit also opened up the opportunity for me to go

on to New Delhi for a series of meetings and a symposium organised by Dr. Klaff on 'Opportunities for Liberalism in India'.

It was then that I met with S.V. Raju and I remember our meeting in the Hotel Le Meridien and my conversation with him and industrialist and former Member of Parliament, D.N. Patodia, about the difficulties for liberals and political liberalism in a country where a political party would not be officially recognised unless it proclaimed itself supportive of socialism. S.V. Raju was a much too 'dyed in the wool' liberal to sign up for such a statement. His great hero was that leading figure of the Swatantra Party, Minoo Masani, and like him, he was not only passionate about the primacy of the individual and abhorred the collective, but also held to the Gandhian belief that however worthwhile the end, the means to achieve it must also be clean. He and his band of devoted liberal colleagues found it difficult to achieve a political breakthrough in their enormous and populous home country, but his consistent stance against corruption says a great deal about his personal honesty and intellectual integrity. Although the initiative represented by my visit did not lead to a significant development of liberal politics, it did result in a connection with S.V. that continued until his death.

Like any genuine liberal, he was not merely a devotee of liberal ideas; for him, people were important. I knew this almost immediately from the way he talked in such friendly terms about our mutual friend Richard Moore whom he had met many years before. Richard was one of the great unsung heroes of British and indeed European Liberalism and twice the Secretary-General of Liberal International. Like S.V., Richard had kept the liberal standard flying during the long, dispiriting, fallow period in the 1950s, 1960s and 1970s in the UK. Richard was also a man of great intellectual power and extraordinary determination and commitment to the cause of liberalism, but he was also a deeply caring individual for whom the well-being of people was the great purpose of politics. It seemed to me unsurprising that he had found so much in common with liberals like S.V. Raju and Professor Babu Joseph from Kerala, President of the Indian Liberal Group, who had met him at a Liberal International Summer School in Berlin in 1973. This commitment to people was confirmed

for me again much later during a correspondence with S.V. where he was expressing a deep sense of hurt over the treatment of women in his beloved India, especially after a particularly horrible incident in 2013 when a woman medical student, Nirbhava, was brutally raped by a gang of men on a bus in Delhi and died. The crime had drawn national abhorrence and S.V. was appalled that such things could happen in his country, not as an isolated incident but as part of a culture and attitude that he regarded as not only profoundly illiberal but a dreadful betrayal of the values of the Gandhian India that he loved.

In thinking about how I could pay tribute to S.V. Raju in this paper, I looked back at one of the speeches I gave in his presence in Delhi during that visit in 2008 when I spoke about some aspects of Liberalism and its relevance today, especially in comparison with Conservatism and Socialism, a comparison S.V. Raju would regularly have made himself.

These terms, ‘conservative’, ‘liberal’ and ‘socialist’ are less often used in political debate today, but they remain significant labels indicating sets of ideas and convictions—a kind of shorthand. The label identifies you or your political opponents as part of a community of like-minded people. The label is likely to trigger emotion. An interesting point in this respect is that one of the labels most likely to elicit a negative response and negative emotion today is the label ‘neo-liberal’, and I find it produces a negative reaction in me too because I do not believe that those who identify themselves as such are liberal at all, not alone because of their ideas, but because of their apparent lack of the liberal spirit of generosity. However, these labels have content as well as emotional tone. I consider myself to be a liberal and belong to a liberal political party. When I say I am a liberal it is because I subscribe to certain ideas and values that are important for me, and I strive for objectives in accordance with these values.

Friends and colleagues of mine do likewise and some belong to other parties. There are important reasons for identifying oneself with a political family. Sometimes the reason is environment, that is, family, friends, and social conditions you experienced as a child or young person. Often it is an elemental or pivotal experience that affects

everything you do. A political prisoner, for instance, is likely to value liberty much more highly than a civil servant working for an autocratic regime. Sometimes, I would say more rarely, it is the result of debate and intellectual persuasion. Although it may happen occasionally, most people do not suddenly become a socialist just because they read *The Communist Manifesto*.

Why is a friend of mine a socialist or conservative rather than a liberal? The reasons must be important for them and there must be considerable differences between things that are important for my conservative and socialist friends and things that are important for me.

The age-old conflict in Northern Ireland has had a profound influence on my thinking. Violence and physical force as a way of resolving political disputes, deep divisions of identity, allegiance and religious confession that prevent dialogue, sectarianism and the unfair discrimination that cements community division—these have always been unacceptable to me. Every community has its differences, disputes and even conflicts, but where there are differences, conflicts or disputes, there are humane and civilised ways of dealing with them. As a liberal, I accept, even welcome, differences but I try not to exaggerate their importance and allow them to destroy relationships. Instead I listen, engage, discuss, explore the interests we share and try to develop working solutions with which everyone involved can identify. Is it a difficult process? Yes. Is it a worthwhile process? Absolutely. Because many of us have adopted this approach, the prospect of lasting peace, stability and reconciliation in Northern Ireland is closer than ever before.

What is needed if this is the perspective you are striving for? First, there is an acceptance that individuals are different and their interests are not all the same. Then comes an appreciation that we all live best when we live in mutual respect. We also hold that individuals are capable of solving their problems, given the right conditions, and that this resolution of problems and living a better life is incomparably easier with a commitment to peace and to conflict resolution through peaceful means. This requires tolerance or, to use John Locke's term, 'toleration'.

Because these things are so central for me, I consider myself to be a Liberal. If you look at the liberal value system, you will find ‘diversity’, ‘belief in the individual’ and ‘tolerance’ occupy central places in liberal thinking. Most of us have things we feel very strongly about and these will affect the fundamental choices we make in politics. These are some of the key values for me.

Of course, I accept that there are other purely utilitarian reasons for choosing to belong to a political family or a political party. Expediency is one of them. You can join in sharing the spoils of power, though that is rarely a reason for joining liberal parties which are not usually in position where such abuses are a ready temptation! It might be the wish to exert influence in your society. Someone may join a conservative party because they happen to be the most powerful political force in a country, but even in such cases, you cannot do without the labels or ignore the motives other people have when they are involved in politics.

So if I am a committed liberal, can I talk dispassionately and fairly about conservatism and socialism? One of the preconditions for fruitful discussion—or fruitful negotiation as in the case of Northern Ireland—is to listen carefully and try to avoid misrepresentation of the views of others, and that is what I will try to do.

Let us start with some of the big differences between liberalism, conservatism and socialism. Of course, in reality, things are not entirely simple, clear and straightforward, as I will show later on. When people identify themselves with a political family, or political mainstream, they do so because they share some basic values and priorities with the ‘family’ they choose. All three have a distinct value system with a number of central principles.

For the liberal, the central principle is often described as ‘freedom of the individual’, which explains why choice, tolerance, rule of law, civil and political rights, property and entrepreneurship are so important for liberals. Without them, freedom of the individual would be meaningless. The linkages between these values or matters of importance are manifold.

Tolerance, for instance, is a precondition for the commitment to human rights. Protection of human rights means protection of freedom because freedom may be understood as the sum total of rights an individual enjoys. But this tolerance also points us to the other key value in liberalism—that of liberality, or generosity of spirit. This is perhaps the critical difference between classical liberalism and the so-called neo-liberalism that is current today.

For conservatives, a central value or principle is 'order'. We just have to look at many trouble spots in this world and the plethora of states with potentially explosive social, ethnic and religious tensions, to see why such a value might be deemed so important. Authority, discipline, a sense of duty and tradition—something that nation-builders always like to emphasise—are important instruments in trying to achieve and maintain order. In recent years, 'law and order' and zero tolerance campaigns to tackle increasing levels of crime latch onto conservative values. Conservatives also tend to focus on issues such as 'the nation', 'the family' and 'morality'. Perceived threats to integrity stem, for conservatives, from disregard for order. At the same time, however, nation, family and a strong sense of right and wrong help to reinforce order.

For socialists, economic equality and social justice are central values. To decide what is socially just, one needs a view of 'the common good', a vision of greater material equality and a sense of solidarity. A serious commitment to the promotion of material equality requires a redistribution of wealth and the limitation of certain individual privileges. Rights to liberty—more specifically economic liberty – and private property are restricted because, seen from a socialist standpoint, they tend to generate or perpetuate difference and inequality. Collective ownership and collective decision-making are the best safeguards against an unequal and unjust society.

One of the things we see throughout the world is that despite different political histories, we do have a common understanding of some basic values in each of these political mainstreams. Few would disagree that the respective values mentioned above are inextricably

linked to the mainstreams we are talking about. This leaves us with four important questions:

1. Are these value systems mutually exclusive?
2. Are these value systems specifically 'Western' in nature or are they universal?
3. Do they adequately reflect the realities of political parties and their policies in the 'real world' of today? What about parties with roots in religion or other values such as the so-called Green parties?
4. Do these values help us as politicians to solve the most important problems facing us today?

1. Are these value systems mutually exclusive?

Well, yes and no. In order to enjoy freedom, there has to be some order, and freedom depends to a certain extent on social justice. It is difficult to imagine the freedom to elect and be elected, for example, if there is no legally defined and sanctioned electoral procedure, and indeed monitoring of its implementation. This means that in order to enjoy such rights, there has to be some enforced order to the process of election. Opportunity depends on *access* to that opportunity. There have to be institutional arrangements in place to ensure that children from poor backgrounds are not denied all of the opportunities available to more privileged members of society. This amounts to saying that a measure of social justice is a precondition for opportunity.

However, experience has taught socialists in China and social democrats in Europe that social justice can only be achieved if there is something with which to achieve it. There must be some societal wealth; some substance on which to build. Free markets are the best instrument we have found to produce wealth. The experience with command economies is that, after a certain point, they no longer perform and go into demise. Markets are a precondition for creating a cake. You need a cake before you can cut any slices.

Lee Kuan Yew of Singapore made another link between order and freedom, but a specifically conservative one when he said that,

The expansion of the right of the individual to behave or misbehave as he pleases has come at the expense of orderly society. In the East the main object is to have a well-ordered society so that everyone can have maximum enjoyment of his freedoms.¹

This brings us to another important point. For a classical conservative, it is order that comes first. This does not mean that a conservative does not value freedom, but the primary commitment is different. Their commitment is to order and subsequently such freedom as can be available. For the liberal it is to order only in so far as it is necessary to make possible the liberty, which is the primary value.

Similarly, a liberal values social justice, but a liberal is more likely to think of it in terms of self-improvement or as is sometimes said 'help for self-help', believing that the individual knows what is best for him/her and, given the opportunity, can do more to improve his/her condition than any government or administration can do.

If you were to push a German or French socialist on the issue of free markets and whether to allow an unprofitable large company to collapse, creating significant unemployment, his or her instinct would probably be intervention and subsidy. The point is that while there are significant differences of orientation, value systems are not mutually exclusive or hermetically sealed off from each other. However, the priorities and emphasis of each value system are different, and this really matters. If I were forced to choose, what would be my fundamental and foundational values? This is the point at which the differences become very clear.

The outcomes are very different as well. Throughout the world, the path taken in countering terrorism after September 11 is a conservative one. Conservatives would say, 'Yes, we have taken this path in order to protect liberty'. The liberal response to this is to say, 'At what cost, and are we still free?' The cost has been massive in terms of lives and resources, but

there has also been an enormous invasion of citizens' rights to privacy, and an increasing disregard for central principles of rule of law such as that crimes have to be proven beyond reasonable doubt, and that the interrogation of suspects should not take place without proper access for them to legal counsel.

Socialists would emphasise a completely different aspect of terrorism—the importance of dealing with the economic root causes. For liberals, there are also root causes, but they are more in the communal experiences of humiliation, disrespect and unfairness than in mere socio-economic disadvantage.

These differences are of a fundamental kind and are not only matters of belief, but are worked out in policy and practice. Political parties cannot afford to ignore such basic values without antagonising their most committed members. It is not impossible to lead your party to new ways of seeing things, but it is a major effort and there will be limits to how far a party will go without fracturing if it appears to members that fundamental values are being sacrificed.

2. Are these values western or universal?

It must be admitted that liberalism and socialism, in particular, have been export ideas. Their mainstreams are identified with thinkers from the West, like John Stuart Mill and Adam Smith, Karl Marx and Lenin. The names ring a bell throughout the world, but we can go further. When we talk about the 'social welfare state', we are referring to a European invention of the mid-twentieth century. However, an idea should not be rejected because of its purported origin, but judged on whether it is a good or bad idea because of its effects and outcomes.

Conservatism, by its very nature, tends to be a more home-grown affair and some would argue that, as a result, it is more natural or authentic for traditional cultures, but does this mean that it should be accepted ahead of a non-traditional prospectus? There is a tendency today to reject things because of their origin or purported origin. The standards set out

in the Universal Declaration of Human Rights, and elaborated in the two Covenants that followed, are often said to reflect Western values. They are undoubtedly liberal values, but does that make them intrinsically Western values?

Shashi Tharoor, a well-known Indian author, Member of Parliament, Government Minister and UN Under-Secretary General for Communications and Public Information, said at a conference organised by the Friedrich-Naumann-Stiftung in Portugal many years ago,

What exactly are these human rights that it is so unreasonable to promote [because of cultural difference]? If one picks up the more contentious Covenant on Civil and Political Rights and looks through the list, what can one find that someone in a developing country can easily do without? Not the right to life, I hope. Freedom from torture? The right not to be enslaved, to be physically assaulted, to be arbitrarily arrested, imprisoned or executed?²

Tharoor also made the point that the International Bill of Rights—that is, the Universal Declaration and the two Covenants—were the outcome of work and deliberation that was truly international. Indeed, in the case of the Covenants, the developing world at the time arguably made a decisive contribution.

I am sure that socialist and conservative colleagues would agree that there are political concepts and ideas that are universal in nature and application. ‘Social justice’ strikes a chord in the Islamic world just as much as my part of the world. Law and order and personal security are universal concerns—one reason we can cooperate through Interpol.

There is a view among some Western political families and political scientists that our current political families or mainstreams can trace their origins back to the French Revolution, with liberals and socialists representing the values of the Revolution and conservatives being the opposition to the Revolution. However, if we look at the value systems and forget the historical baggage, I think we can have a more balanced

view. Lee Kuan Yew was definitely a conservative, Zulfikar Ali Bhutto of Pakistan was definitely a socialist (it was he who coined the term 'Islamic Socialism') and Kim Dae Jung, former President of the Republic of Korea, was in substance a liberal. Not only are these all Asian leaders, but let us not forget the enormous influence that Mao Zedong, Mahatma Gandhi and Nelson Mandela have had on political activists in the West. Political and intellectual influence are a two-way flow.

3. Do liberal, socialist and conservative value systems adequately reflect the realities of political parties today?

There is a quotation attributed to the conservative actor who became one of the last century's most respected Presidents of the United States of America, Ronald Reagan: 'The government's view of the economy can be summed up in a few short phrases: If it moves, tax it. If it keeps moving, regulate it. And if it stops moving, subsidize it.'

This is a rather amusing but probably pertinent description of the reality of the approach of almost all political parties if they have a chance to form a government. Why is it a challenge for socialists, conservatives and liberals alike? Elections are won by making promises, but many, if not most, promises cost money so we are constantly looking for new sources of tax revenue. We have to deal with the insatiable demands of powerful lobbies—farmers, unions, pensioners, environmentalists, business federations—and we have to listen to our party members who are often vocal in their demands. I think that it is fair to say that when it comes to re-election and winning votes, most parties are tempted along similar routes of unfunded promises, whatever their political convictions.

Until recently, many observers talked about a convergence in politics. In the UK, the Conservatives after Margaret Thatcher and John Major started to embrace minority interests, rather than reject them out of hand. George W. Bush set the tone of his campaign for the US Presidency using the term 'compassionate conservatism'. Among socialists, there were attempts to reform social democracy (the milder form of socialism) into something milder still. The policy paper "Europe: The Third Way" presented by the

British Labour Party Prime Minister, Tony Blair, and Gerhard Schroeder, German Social Democrat Prime Minister in June 1999 demonstrate this.³ The following statement of modern 'social democracy' is a case in point.

The promotion of social justice was sometimes confused with the imposition of equality of outcome. The result was a neglect of the importance of rewarding effort and responsibility, and the association of social democracy with conformity and mediocrity rather than the celebration of creativity, diversity and excellence...

Socialist? Liberal? Conservative? It is not so easy to say!

These examples are just the tip of an iceberg. In Poland, former staunch members of the Communist Party are now committed supporters of European Union membership. There is nothing liberal about the policies of a former liberal, the current Prime Minister of Hungary. China and Vietnam, communist countries, have market policies in place that would make European liberals blush.

Most parties recognise the economic reality that countries with liberal economic policies have better long-term performance records in economic growth, compared with other countries. Regular surveys comparing more than 120 countries, and published by the Canadian Fraser Institute in cooperation with the Friedrich-Naumann-Stiftung and other liberal think tanks, show that, 'more economic freedom is strongly related with higher levels of income' and 'is negatively correlated with poverty'.

Furthermore, there are strong positive correlations between economic freedom and longevity, knowledge, and a decent standard of living. It seems that increasingly there is agreement on some basic principles of economic policy as rational, sensible and desirable.

This does not mean that we agree on everything; even in the area of economic policy, there are considerable differences. Socialists would emphasise employees' rights. Liberals would tend to emphasise consumers' rights. Socialists would still tend to emphasise targets and the necessity

of intervention in the economic process. Liberals would be wary of formulating economic goals on behalf of others and would tend to rely on enlightened self-interest and self-regulation.

Despite the overlaps we should not assume that all the differences have disappeared. I would still be reluctant to put myself in the same boat as my Tory and Labour colleagues in the UK and claim that we see eye to eye. The differences are still substantial, even if they are not as spectacular as they used to be in the field of economic policy.

A good example in recent years of a profound difference between our view as Liberal Democrats, and those of many Tory and Labour colleagues, concerns the war in Iraq. We Liberals believe that the avenues of diplomacy were not exhausted and we fear that the long-term consequences were not thought through properly. The big differences between European liberals and American conservatives are very clear on this particular issue. The idea of a 'clash of civilisations' is inherently a conservative one. The violent outcome of the problems in Iraq gives credence to the conservative viewpoint that civilisations will and must clash. In response the idea that conflict, and potential conflict, must be addressed by exerting authority and, if necessary force, is something we tend to find among conservatives but the emphasis is very different for adherents of liberalism. As liberals, we fear that instead of bringing peace and order, the Gulf War and subsequent Western military interventions have ignited a process of dissolution into chaotic violence right across the region that will make more difficult to achieve the liberal vision of a 'dialogue between civilisations' and a peaceful solution to the many problems of the wider Middle East.

Although there are plenty of examples of convergence as politicians try to tackle economic and social problems, there are definite limits that are defined by fundamental beliefs. The methods used to solve problems and achieve objectives have always been subject to change within a political mainstream—revolution or reform, big bang or gradual change, big government or small government? This divergence is one of the reasons why mainstreams are themselves heterogeneous. Among socialists, we have a family that spans the area between orthodox Marxism, on the one

hand, and what used to be called 'New Labour' on the other. Each member of the family represents a specific response to challenges and realities. It is important to note, however, that the underlying value systems are less susceptible to change than the policies constructed for a particular context. No modern socialist would have a problem with the following quotation from the Blair/Schroeder document I have already mentioned:

Our aim is to modernise the welfare state, not dismantle it: to embark on new ways of expressing solidarity and responsibility to others without basing the motivation for economic activity on pure undiluted self-interest.

One could see liberals as a motley lot – classical liberals, new/social liberals, libertarians, and neo-liberals, to mention only a few. On the other side, social liberals and social democrats may sometimes seem difficult to tell apart. Despite the many differences, however, all liberals share a common denominator – they believe in putting freedom and the individual first and they believe in generosity of spirit – 'liberty and liberality'. Another distinguishing feature of liberalism is that it distrusts decisions made on behalf of collective entities, whether these entities are nations, classes (for example, the 'working class'), castes, religious groups (Christians, Muslims, Hindus), or whatever. All such decisions tend towards arbitrariness in that they ignore differences within such an entity, overlook individual needs and create new injustices.

This is very different to the socialist approach. Socialists will counter that ordinary people cannot defend themselves adequately against the vicissitudes of modern global economic and social processes. The scale of the solutions required make economic management by government and social engineering an absolute must. Liberals, by way of contrast, would question the thrust of this observation and would counter that enlightened self-interest will usually ensure that one's activities do not cause harm to fellow citizens.

What about the Christian Democrats, the Greens and the like? To a certain extent, all modern political parties are hybrid in terms of their

ideological baggage. The bigger the party, the more hybrid it will tend to be. In most cases, however, the main thrust will be identifiable—the Social Democrats of Germany definitely share a reformist socialist tradition; the British Conservatives are, by and large, conservative. With Christian Democrats and Greens, the situation is a little different. The Greens were initially very much a one-issue affair and able to recruit conservatives, liberals and socialists with strong environmental concerns, but problems started to arise when the Greens addressed other political issues. Christian Democrats tend either to be socialist or conservative in orientation, or a mixture of both in the case of Germany. In order to find the reasons for this, one has to look at their respective confessional roots. In some countries, the idea of ‘Christian socialism’ was an important formative force. In other countries, the Church was traditionally closely linked with a Catholic conservative elite. The existence of such hybrid parties, however, does not mean that conservatism, socialism or liberalism as political forces or as value systems are on the wane. It merely means that local contexts and histories affect how these major value systems are expressed in policies and overlap in a particular party.

Finally, one of the most important question for liberals is why liberal parties are rarely majority parties, and not as strong as we might hope they could be? Are they victims of their own success, who are already seen as having won the argument in the practical sphere of standards and achievements? We know that various international human rights instruments, starting with the Universal Declaration, are definitely liberal in content, while the aims of the World Trade Organisation—restraining and eliminating protectionism and its negative effects on development—are liberal in character. The aim of achieving the ‘international rule of law’ is a liberal commitment, as is the general acceptance that good governance is a precondition for development. Is it true that everyone in the developed world is a ‘liberal’ now?

One could also say that socialism and, in particular, social democracy were the winners of the hearts and minds of ordinary citizens for it seems easier to win elections with socialist slogans and promises than with liberal ones. Socialism seems closer to people’s day-to-day needs – this is what they

claim and the claim is a credible one as far as many voters are concerned.

Where there is uncertainty, instability and insecurity, people tend, perhaps more than ever before, to opt for conservative solutions. Is it not because conservatives have in many areas effectively and credibly disassociated themselves from authoritarian baggage, privilege and class-consciousness and offer calm and stability in a world that seems so uncertain?

4. Finally, do these values help us politicians solve the most important problems facing us today?

One of the more important challenges is the achievement of 'sustainable development' now enshrined in the UN's Sustainable Development Goals. I have already mentioned the enormous change that has taken place in the field of economic policies, where they now tend to be much more pro-market than thirty years ago, not least because despite recent economic crises and stagnation the burden of evidence and experience still shows that there are no viable alternatives and because in general, over the longer term, the good performance of many countries that have liberalised their economies has been well-documented.

Development cooperation many years ago was mainly a government-to-government affair: taxpayers' money transferred from one country to another, governments deciding who would get how much for a particular purpose. The purpose itself was defined by the government. Interestingly, many major recipients of such aid in Sub-Saharan Africa and elsewhere have seen little or no development. There is a growing awareness that development co-operation in effect meant adopting the structures and approaches of a command economy - targets were defined not by consumers (ordinary citizens) but by bureaucrats or authoritarian leaders out for their own benefit; success was measured not by the ability to buy and sell products on the basis of supply and demand, but by the ability to disburse funds 'efficiently' and 'on time'. Need was not the criterion, but 'the capacity to absorb'. Unsurprising then that a lot of money never reached its intended destination.

Today, the approach has changed. The shift is away from development cooperation to opening up markets and creating opportunities for greater trade. 'Trade, not aid', is, by the way, an old liberal slogan. Tearing down the barriers, however, is easier said than done. There are powerful vested interests in North America and the European Union working to uphold barriers against the import of sugar, textiles and steel, and thus undermining development efforts.

Interestingly, what applies to economic and trade policy also holds good for development policy. There is a consensus among professionals and among mainstream parties throughout the world on basics. Opening up the world's markets is an important way of promoting development. Agreement goes further - good governance and security are preconditions for development. But despite such agreement on fundamentals, the differences in practical out-working between the political mainstreams are considerable, though they can be fruitful.

Liberals will continue to stress the importance of promoting and rewarding entrepreneurship and supporting market-oriented policies from the grassroots upwards. We believe that the key to development, whether in the form of freedom and opportunity, education, health and economic and social well-being, is the freedom to generate wealth.

Conservatives will maintain that there will be no development unless there is a secure environment for development, with order, guidance, discipline and hard work.

Socialists will stress equality above all. It is true that a process in which some groups benefit and others do not and where the gap between rich and poor increases is inherently unstable. Equally, unaddressed major social injustice will lead to instability and the collapse of confidence and development.

All three have a point. Debate is necessary and debate can lead us to better solutions. This is a process of development that is sustainable, and it is also a very 'liberal' approach.

It is difficult to define what is 'sustainable' simply because we do not know enough. Technology, for instance, often introduces new variables and new ways of doing things that undermine previous assumptions concerning sustainability, but it is a good guess to assume that mass unemployment brought about by structural change is not conducive to development. Put another way, social policy is a way of ensuring that development is sustainable.

One must be aware of the fact that things can easily go wrong. Because we do not know all the right answers, we need to find them, and as the socio-political and economic context changes, so we must adapt our policies, though not our principles. For this, we need lively and serious debate, an open political arena, and parties representing different approaches engaging in the debate. What we should not do is to question the commitment of each respective side so far as the common aim of development is genuinely shared.

What are the principles we should espouse? We must always remember that we may be wrong and the other fellow may be right. However, if we talk things over together rationally and reflectively, we may be able to correct some of our mistakes, and get nearer to the truth – though we will never actually arrive at a position of 'absolute truth' in this or any other area of life.

These are fundamental liberal principles and they are the principles that S.V. Raju practiced and shared behind the closed doors of his work. It was the adherence to these principles and his regular conveying of the implications and potential impact of those liberal principles in everyday life as well as in high politics that are his lasting contribution to the political life of this great country.

The finest epitaph for him would be written, not in stone or even on this page, but in the lives of a new generation carrying forward the message of the Gandhian liberalism to which S.V. Raju adhered, and spreading it out across the people of his beloved homeland.

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Last Man Standing: A Tribute to S V Raju

SEETHA

In 1959, a fledgling political party was looking for someone to man the office of executive secretary. It was not a very glamorous job – it was that of a general dogsbody, keeping the administrative machine of the party well-oiled – but there were quite a few applicants. During the interviews, one of them impressed Minoo Masani, one member of the founding triumvirate of the Swatantra Party. And Singanallur Venkataraman Raju, all of twenty-six years old, began a life-long tryst with the liberal movement in India.

Raju was a quintessential Bombay boy. His mother died when he was four and his father remarried a few years later. That made life difficult for the young child, who had problems till his grandmother stepped in and decided that nine-year-old Raju was to be brought up by his uncle who was also in Mumbai. Raju grew up with his cousins in the Matunga area of the city and his ties with the locality continued long after he moved out of his uncle's house when he was nineteen and got a job.¹ The Swatantra Matunga group was a very active unit of the party and Raju's elder son, Vivek, remembers its members converging in their small house in Chembur late at night regularly to hold lengthy discussions on party strategy.

When Raju applied for the Swatantra job, he was working in a labour union run by his uncle. He, a Tamilian Brahmin, was also courting a young Protestant Christian nurse, Kumud, he had met when he was hospitalised at KEM Hospital, and she had told him to get a good job, paying ₹500

a month, before they got married. It was at his uncle's suggestion that he applied to the Swatantra Party. 'Masani liked the way I spoke English,' he told his son many years later.

As executive secretary, Raju was in close and almost constant touch with the stalwarts of the party – Masani, C. Rajagopalachari 'Rajaji', N. G. Ranga, Sir Homi Mody and N. Dandekar. That opened up a whole new world of liberal ideas for him. Till then Raju was not very ideologically inclined.

People who have worked with Raju say he had great organisational skills and an uncanny ability to put things together. Soon, the leaders started depending on him a great deal and entrusted him with more and more responsibilities. Election campaigns were something he managed very well and he also encouraged and guided the party cadres in the protests against the Constitution (Seventeenth Amendment) Act 1964, which was among the early attacks on the fundamental right to property.

On organisational matters, it was his word that prevailed.

A close associate since 1970, Nitin G. Raut, recalls how Raju refused to shift the national headquarters of the party to Delhi, as all other parties did. He did not like the political culture of Delhi and felt it was best to keep the party administration as far away from it as possible. Raju also gave regional and state units far more autonomy from the central leadership, within the overall basic objectives of the party.

One anecdote brings out how Raju carefully nurtured the party. When the party planned to contest the 1971 elections, there was concern about the lack of funds and a meeting was called to discuss ways to raise funds. Though the Swatantra Party was labelled a rich man's party by its rivals – notably the Congress and the left parties – businessmen rarely opened up their purse strings for it. Raju surprised everyone by saying that the situation was not as bad as they thought – there were some party funds available which he alone knew about!²

In his attempt to use the party's funds economically, he never compromised on its values. There is the story of his visit to Orissa (now Odisha) after the Party formed a coalition government in the eastern state in 1967. He did not avail of a government car or government accommodation. He hired his own vehicle and paid for his stay with party funds. Ministers who were Swatantra Party members were invited to the party office to discuss party matters. According to Raut, Rajaji believed government money should not be used for party work and Raju "adhered to Rajaji's advice out of conviction and faith".³

But he remained the quintessential backroom boy, who never came into the limelight. In photographs of Swatantra Party meetings, Raju is invariably seen in the background – and sometimes in the foreground – but he was never identified by name. As executive secretary, he knew exactly what was going on in the party at any point of time and some of his writings show his deep knowledge of developments within the party. Everybody else knew bits and pieces; Raju had the whole picture. It is a pity that he has passed on without putting down the story of the Swatantra Party in a book.

The end of the Swatantra Party in 1974 saddened Raju a great deal and he was initially bitter about the role played by party leaders in its demise. He, however, never used the term 'end' or 'dissolution'. The then party president, Piloo Mody, and the top leadership of the party convened a national convention in August 1974 and the proceedings, which Raju and many others insist was rigged, formalised a proposal to merge the party with the Bharatiya Krishak Dal.

Refusing to accept this, Masani and over fifty other delegates announced that they would keep the party alive in the states of Delhi, Haryana, Kerala, Maharashtra and Tamil Nadu.⁴ Raju had resigned from the post of executive secretary in 1972 and he now threw his heart and soul into keeping the Swatantra Party, Maharashtra alive, constantly encouraging the few die-hard members not to lose hope.

Raju was initially bitter about the events of 1974 and about those whom he felt were responsible for it. But later he became more philosophical

about it, saying ‘the Swatantra Party died with Rajaji’, that since there was no party left to dissolve all that happened between 25 December, 1972 (the day Rajaji died) then and 4 August, 1974 ‘were of no consequence’.⁵

But it was Rajaji’s last words to him that made Raju strive to keep the Swatantra Party alive long after everyone had written it off. Raju’s last meeting with Rajaji was in June 1972, six months before he passed away. Raju was in Chennai for a meeting of the general council of the party and had gone to meet Rajaji before he returned to Mumbai. In an article in *Freedom First*, Raju recalled that Rajaji blessed him and said he should not be disheartened by the dismal fortunes of the party at that time. ‘Carry on’, he said, ‘and keep the “old guard” of the party together,’ as he feared that ‘they all wanted to quietly fade away’.⁶ Carry on Raju certainly did.

Though existing on paper, after a point, the Swatantra Party, Maharashtra was more or less dormant. It was in 1994 that serious thought began to be given to what Raju called ‘re-activating’ the party.

That was around the time that the P. V. Narasimha Rao government that initiated economic reforms in 1991 had started to backtrack on them. Raju believed that this was the result of liberalisation being based on compulsion, not conviction. ‘This being the case, we felt that there was need for a party that believed in a market economy to explain, encourage and support the dismantling of the licence-permit-quota raj and carry forward the reforms to their logical conclusion, discarding the statist apparatus.’⁷

It is when the party decided to apply for registration that it came up against the amendment of the Representation of the People’s Act (RPA), making it compulsory for parties to swear allegiance to the principle enshrined in the Preamble of the Constitution.

The sequence of events is not very clear but it is around this time that the late Sharad Joshi’s Shetkari Sangathan, which had always stood for free markets, was also in search of a party that supported a free economy. He heard about the Swatantra Party, Maharashtra and contacted Raju, setting off a partnership between these two liberal stalwarts that started

in January, 1994. Raju helped the Swatantra Bharat Paksh (SBP) - the party that grew out of the Shetkari Sanghatan - organise its founding conference in Mumbai in May, 1984.

From what I remember as Raju telling me, he and Joshi wrote to the Election Commission regarding the injustice of asking parties that do not believe in socialism to swear by it. They even met the then Chief Election Commissioner, T. N. Seshan, who told them there was nothing he could do since he was bound by the law. 'Get the law changed,' he told Raju. So Raju, along with L. R. Sampat, the general secretary of the Swatantra Party, filed a writ petition in the Bombay High Court, challenging the provision. He had also acknowledged Joshi's singular role in the drafting of that petition.

The petition was admitted in January, 1996 and it has not had a hearing once since then. Raju did seek the help of many eminent lawyers - I was privy to one such conversation - but everyone shied away. 'A comatose Swatantra Party, Maharashtra is breathing on this life support system,' he wrote in 2009.⁸ Actually, Raju was the life support and the question of the very survival of the party after he passed away is in doubt.

Raju may have been disappointed at not being able to reactivate the Swatantra Party, but that never stopped him from encouraging other initiatives to start liberal parties.

When Sharad Joshi contacted him in 1994 about wanting to start a liberal party, Raju himself drove down from Mumbai to Ambethan (where Joshi is based) along with Sampat. He, in a sense, hand-held Joshi in the formation of the Swatantra Bharat Paksh in November, 1984. He did not stop with that. At the age of sixty-one, he helped the SBP when it fought the Maharashtra assembly elections, functioning almost like the secretary of the party, twenty years after he had given up that post in the Swatantra Party.⁹

He understood that other liberal parties were willing to swear allegiance to the Preamble and, hence, to socialism in order to get into electoral politics

and did not think less of them for doing so. His help was always available to them. But he was clear and uncompromising about not letting the Swatantra Party get registered by doing the same. There was a meeting in Delhi in 2004 to discuss the idea of starting a liberal party. Raju attended that and was under tremendous pressure to lend the name of the Swatantra Party to a new liberal party. But he stood firm – unless the RPA was amended to drop the requirement on swearing by the principles in the Preamble – or the court decided on his petition – the Swatantra Party would not get into electoral politics.

Raju dwelt at length on the idea of a liberal political party in his address to the third national convention of the Indian Liberal Group, of which he was president.

Until recently, it was my view this is not the opportune time [for the emergence of a liberal party] but in the last few months I have started thinking differently. Why? I think it is crucial for the early emergence of a party wedded to the liberal philosophy ASAP before parliamentary democracy collapses due to unprincipled political opportunism on the one hand and the subversion of the system by criminals and gangsters.¹⁰

He also voiced his idea of what a liberal party should stand for—uphold freedom and liberty of the individual vis-à-vis the state, uphold a system based on rule of law, no role for the government in business and not limiting the role of the government to maintenance of law and order and safeguarding the country's security, but also accepting responsibility for primary health and primary education and the provision of basic needs like potable water and physical infrastructure.

In a sense, he carried the Swatantra Party on till the last breath in his body.

In the late seventies, Raju had to pay more attention to his personal life. By the time he got married in 1961 he was deeply involved in the Swatantra Party. When his elder son, Vivek, was born in 1963, he was campaigning for Masani in Rajkot and came back very briefly to see the baby, returning only after three months. Despite all his professional

pre-occupations, Vivek's account shows that his family was the centre of Raju's universe.

After giving up the post of executive secretary, Raju worked in Masani's firm, Personnel and Productivity Services. The family lived in a small house in Chembur, an investment that he had been egged on to make by his good friend S. P. Aiyar, but he needed to think about the future of his two growing sons. His wife had given up her nursing job when they married and he needed to make some money. So, in 1980, he went to Jeddah with his wife and younger son, Vinod, who was still in school. Vivek had got admission into an engineering course.

In Jeddah, Raju worked for a German firm engaged in oil drilling in an administrative role. He just did not like it there, Vivek recalls. There was no way he could have any intellectual interaction with anyone. He began to lose faith in his writing ability, something for which Masani always praised him. Raju would always say his talent was honed by Rajaji and Masani. Four years later, having just crossed the half-way mark of his life, he returned to Mumbai, only to find that the money he had made in Jeddah was still not enough!

On his return, he joined Masani's company once again. He was planning to start a recruitment firm, Talent House, but those plans did not work out. He resumed writing for *Freedom First*, the magazine that Masani had founded in June, 1952. Soon, Masani got him to come on board *Freedom First* as editor, along with the then editor, K. S. Venkateswaran.

Around that time, Cyrus Guzder, chairman and managing director of Air Freight Ltd (AFL), was looking for an executive assistant. However, none of the candidates that Masani's firm sent to him came up to his expectations. Masani then suggested Raju's name for the job. In 1986, Raju joined AFL and, for the next eleven-odd years, juggled that with his responsibilities at *Freedom First*. Every afternoon, he would nip across to the *Freedom First* office, a short distance away from the AFL office and spend a couple of hours there working on the magazine. Guzder was generous enough to give him that time; of course, Raju had to be available if he needed him urgently.

This was the start of a period that defined the second half of his life, one totally dedicated to spreading the flame of liberalism in India through *Freedom First* initially and later through the Project for Economic Education and the Indian Liberal Group (ILG), all of which had been started by his mentor and life-long guide, Masani. In 1997, a year before Masani's death, Raju resigned from AFL and became a full-time server to the liberal cause.

The first issue of *Freedom First* that Raju co-edited in April, 1985 was also the first quarterly issue of the magazine after the magazine being monthly ever since its inception. Raju brought his own touch to *Freedom First*, introducing multi-coloured cover pages, encouraging people, especially college students, to write regular columns, having guest editors for issues and also started a *Freedom First of Yesteryears* feature.

His first editorial comment, as full-fledged editor, was about then prime minister Rajiv Gandhi's clarification regarding a statement he had made about the centre and the states being ruled by the same party. He welcomed Rajiv Gandhi's assurance that he was determined to introduce a new political culture and said 'neither his grandfather nor his mother enjoyed the kind of near-universal goodwill that Rajiv Gandhi enjoys. It would be tragic for the country if he blows it.'¹¹

Freedom First saw Raju getting back his writing mojo. He had fretted that his stint in Jeddah had made him lose faith in his writing ability, something Masani had always praised.

One of the early pieces he did for the magazine on his return from Jeddah related to his other mentor, Rajaji. It was a review of a book on Rajaji by his grandson, Rajmohan Gandhi. Raju's say-it-like-it-is approach came through very clearly in the piece – he felt Rajmohan Gandhi had tried to 'tread the fence on occasions' when dealing with Rajaji and Gandhi, since he was the grandson of both.

Raju pulled no punches in criticising Gandhi. 'If we are paying today with dynastic rule, the finger squarely points in the direction of Gandhiji

who designated Nehru as his heir. Public figures have no moral right to nominate heirs as if the country is some kind of family business or inheritance. Harsh words, perhaps, but can the facts be denied?’¹²

As editor of *Freedom First*, Raju blossomed as a liberal ideologue, though, as during his days in the Swatantra Party, he remained largely in the background and was not a familiar name except to the unrepentant Swatantrites, those who wrote for the magazine and those who were involved in many of the organisations that Masani had set up.

In taking the strong positions he did, he was once again influenced by Rajaji. Pointing out that even when Nehru differed with Gandhi, he never spoke about them, he commended the fact that Rajaji ‘suffered from no such inhibitions. Reason and logic dictated his attitudes and actions’. Reason and logic became Raju’s credo as well and it was something that Masani, whose alter ego Raju was to become, encouraged as well.

That is why Raju never let his adoration and idolisation of people cloud his judgement, or silence his criticism, of them. He felt Rajaji erred in allowing, under the influence of K. Kamaraj of the Congress (O), the Grand Alliance of 1971 to take certain positions that ran counter to his own principled stand and described this much later as ‘a momentary lapse which ultimately led to the collapse’¹³ of the party. He also wrote that ‘the Party’s Founder and the two other founding members are equally responsible for the end of an outstanding experiment in principled politics.’¹⁴

Raju simply disliked euphemisms or any kind of beating about the bush and this became the hallmark of his writings in *Freedom First*, whether it was the column ‘Cabbages and Kings’ which he co-wrote with Venkateswaran and later R. Srinivasan, associate editor, or his own articles.

Writing about a conference on privatisation he attended, he lamented the fact that many of the pro-free market economists who attended it did not want to use the word privatisation.

However, what really saddened me was a discussion on the need to find a better word than 'privatisation'. Why? Because the word would not be 'popular'; because people are liable to misunderstanding it (as a move away from socialism to capitalism).¹⁵

He then went on to recall how, when the Swatantra Party's Statement of Policy was being discussed in 1959, some ex-Congressmen were uncomfortable with the open repudiation of socialism on the grounds that the party will never gain popularity. They, instead, rooted for the term, Gandhian socialism. Rajaji and Masani, he wrote, put their foot down and refused to compromise.

Raju, too, was uncompromising on some issues like democracy, freedom and human rights. He was a great admirer of Margaret Thatcher's economics. He would also bemoan India's heavily Soviet Union-biased non-aligned policy and believed that India and the United States were natural allies. But when Thatcher prohibited her ministers from meeting the Dalai Lama on his visit to England and when American President George Bush disallowed a move to let Chinese students whose visas had expired to stay on in the United States, Raju was distressed that 'commerce has pushed aside human rights' and blasted Thatcher and Bush for 'currying favour with the gerontocracy in Peking (in return for alluring prospects of trade no doubt'.

The next lines revealed a theme he would constantly harp on through his life: 'A free society and a free economy are two sides of the same coin. But a market economy need not necessarily be a free society...'¹⁶

When, in 1991, the Indian economy was liberalised, *Freedom First* was among the first publications to point warn that liberalisation may not sustain under pressure. Impatient with the reluctance to be bold and unapologetic about liberalisation, he was aghast that the then prime minister P.V. Narasimha Rao kept assuring that the Nehru line had not been abandoned. Raju wrote,

If these politicians are now advocating the freeing of the economy (with long-winded, often dishonest explanations,) it is not because they are

anxious to part with their power to issue licences, permits and quotas but because they have no options left.

After that time and again, he would keep pointing out how this half-heartedness manifested itself in various actions of successive post-1991 governments. This is what led to the attempt to breathe life back into the Swatantra Party, Maharashtra, which is dealt with in detail later.

Blunt he may have been, but Raju, mainly through his writings in *Freedom First*, always took a nuanced stand on issues, whether it was the demolition of the Babri Masjid or the issue of caste-based reservations or indeed a highly polarising Narendra Modi, as will be seen later.

How Raju managed to keep *Freedom First* alive, bringing it out month after month (the experiment with a quarterly lasted only a few years), is something that boggles everyone's mind. Money was a huge problem and, as a result, he could not hire anyone. So he brought it out single-handedly, juggling it with his other responsibilities.

The other responsibilities were the various organisations that Masani had set up. As Masani grew older, he began to rely more and more on Raju, and his own son, Zareer, would joke that Raju was his father's elder son.

Masani and Raju met for the first time when he was interviewed for the Swatantra Party job. As Raju ably handled the affairs of the party, the two became extremely close. For Raju, Rajaji and Masani were his two mentors but because they were both in Mumbai (where the party headquarters was based) he became much closer to Masani.

How deep their bond was came through when it was Raju to whom Rajaji wrote to persuade Masani to continue as party president after the latter resigned in the wake of the party's humiliating defeat in the 1971 elections.

Raju quoted the letter in an essay he wrote for a publication commemorating 50 years of Swatantra Party, 'Dear Raju, nothing would please me more than if Masani could change his mind and agree to be President again at

least for one year'. Raju recalled that he showed the letter to Masani and also tried to persuade him on Rajaji's behalf. 'What I got was a typical Masani riposte "what's going to happen after one year? Nothing."¹⁷

Masani had complete trust in Raju and apart from *Freedom First*, and the Indian Council for Cultural Freedom that published it, he also got Raju involved in the Freedom First Foundation (to keep some money for the magazine), Adult Education Foundation, the Rajaji Foundation, the Indian Liberal Group (which had become inactive) and the Project for Economic Education (PEE). By the late 1990s, Raju was almost completely involved in these.

Of these, it was the PEE, which Masani had started in 1985 to educate the public about the feeble economic reforms that had started in the eighties, which was more active. Driven by Raju, who was its executive director, the PEE organised seminars, lectures, workshops - many of them in collaboration with the Friedrich Naumann Stiftung (FNSt) - and even sponsored publications, one of them being a collection of Sharad Joshi's articles titled *Answering Before God*.

Raju was ever on the look-out for good ideas to pursue and when I, in 2002, suggested attempting a balance sheet of liberalisation, he was quick to agree and organise a seminar around that theme, coinciding with the first national convention of the ILG in Hyderabad. Ten years later, he got me to update that document and organised another seminar in Mumbai in 2012.

Even a stray thought could get him all excited. I remember seeing an annual alternative budget brought out every year by a group of left-leaning economists. I mentioned this to Raju, wondering why there could not be a similar liberal alternative and he immediately got things going. The first Liberal Budget came out in 2005 and there were two others before the initiative ran out of steam because people involved, including me, could not devote enough time for it.

Another initiative was to make journalists familiar with concepts of liberal economics and the liberal approach to economic problems. He gave me

full freedom to design the programme and identify and invite speakers. The first workshop was held in Bengaluru in 2004 and the second in Delhi in 2006, but this again faded away.

The PEE had been started in association with the Leslie Sawhny Programme for Training in Democracy, which was set up by Masani in 1968 to train young people in citizenship, as well as B. R. Shenoy's Economic Research Centre. In 2005, however, the Leslie Sawhny Programme decided not to go in for contributions under the Foreign Contributions Regulation Act, which meant that it could no longer fund the PEE. Raju could have let it die out, but he did not. He converted it into a Section 25 company with himself and long-time associate Kashmira Rao as founder directors and also brought Mumbai-based economists S. S. Bhandare, Ajit Karnik and Chandrabhas Deshpande on board. The PEE continued to hold events and bring out publications from time to time.

The PEE was also the vehicle for the revival of the Indian Liberal Group.

It is ironical that though Raju's name had become synonymous with the Indian Liberal Group, an institution which he resuscitated, he was initially reluctant to take responsibility for it.

The ILG had been set up by Masani in 1965 as a forum to promote the liberal point of view. After Masani became less active, owing to his advancing age, the ILG also became dormant. In the late 1990s, Rainer Adam, the resident director of the Freidrich Naumann Stiftung - the think tank of the Free Democratic Party of Germany - that was collaborating with the PEE on various programmes, suggested that there should be a platform which could bring all the Indian liberals together. Since the ILG existed on paper, Raju then thought of reviving it.

Once he got down to the task, he threw himself into it fully. He sent letters to 600 people – those who were in Masani's database, subscribers and contributors to Freedom First, people who had attended seminars of the PEE. For many, that was the first introduction to Raju.

It was a mammoth task and Raju's famed managerial capabilities were on full display. There were three regional meetings, culminating in a national workshop on liberalism in Mangalore in March 1999, where the constitution of the ILG was adopted as were liberal position papers on various issues. All these were held under the aegis of the PEE.

Over the years, Raju tried to build up the ILG as a strong organisation, with a national executive, state executive and local chapters as well as special interest teams. Raju was clear that the ILG should be more than just a group of people getting together and discussing issues. He wanted it to move out of seminar rooms and be both a debating group and an 'activist' one. Seminars, discussions, workshops and the like are important; but these by themselves will be of little use if what is discussed and agreed upon at such seminars, discussions and workshops is not translated into action.¹⁸

He also wanted the ILG to draft a set of policies around which a liberal party could be formed and identify and train potential leaders of this party.¹⁹ The revival of a liberal dialogue, he felt, should not be an end in itself but 'the means to the end which is the restoration of liberal values in India.'

Raju did manage to bring a diverse set of Indian liberals together – many of them had been working in isolation and had not known about the existence of other persons and groups. Raju proved to be the networking and cementing bond.

Under Raju's guidance, ILG did some very stellar work, among them being drawing attention to the now-widely used Section 49 (O) in the RPA, which allowed negative voting. The ILG took out advertisements in papers and distributed pamphlets during one assembly election in Maharashtra educating people about its existence and how they could use it.

But a 400-strong organisation also meant that there were many views and opinions on every topic. There were ardent free market advocates who could not see eye to eye with those with more nuanced positions, there were human rights activists who rejected liberal economics, those

who wanted population control and those who did not, those who wanted caste-based reservations and those who bitterly opposed them. There were contradictions galore and some people refused to come on board the ILG.

ILG began to take more and more of his time and Raju kept looking for someone to take over the reins, since he had to pay attention to *Freedom First* as well. But no one was ready to take on the burden of stepping into Raju's boots and carrying forward an awesome legacy he had created.

Meanwhile, ILG started to lose momentum and Raju publicly expressed his anguish at the third national convention in Mumbai in March 2006. 'I was obviously living in a dream world,' he said.²⁰ But he believed in the need for the ILG:

The ILG is perhaps the only organisation that is totally devoted to the propagation and defence of the Liberal philosophy. This philosophy believes that an open society and an open economy are two sides of the same coin. Hence, in my view, its active **presence in India's** polity is important and necessary, particularly now when the enemies of a free market and a free society are doing their best to turn the clock back to the bad old days of statist rule.

Raju tried several times to put the ILG back into high gear. Finally, in 2010, Meera Sanyal agreed to take over as president. Under her, ILG got converted into a Section 25 company and had to be renamed as Liberals India for Good Governance (LGG). Raju was one of the seven directors of the LGG, but he was finally free of day-to-day responsibility. He, then, devoted his energies entirely to *Freedom First* and the PEE.

He continued to carry on till the last breath.

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About the Contributors

HINDOL SENGUPTA

Editor-at-Large at Fortune India

Hindol Sengupta specialises in writing on public policy and the political economy, entrepreneurship and the business of luxury. He has written extensively about the economic histories of India's Congress Party and the Bharatiya Janata Party, and infrastructure, energy and environment policies in India. He has extensive experience in in-depth reporting from Pakistan and other neighbouring countries. Hindol has also authored seven books, the latest of them, *Being Hindu: Old Faith, New World and You*. In 2015, his seminal book on India's underbelly of entrepreneurship, *Recasting India*, was shortlisted for the Hayek Book prize, given by the Manhattan Institute. He became the youngest writer, at 34, to be nominated for the Hayek prize and the first ever from India.

ATANU DEY

Economist

Atanu Dey is an economist with a background in development. He did his doctoral work at the University of California at Berkeley. Prior to going back to school for his PhD, he worked at Hewlett Packard in the Silicon Valley in their computer systems division. While he enjoyed working for HP, he realised that he was more interested in understanding why India was poor and he quit to travel India, US and Europe. His travels gave him the insight that economics informs the question of poverty better than any other discipline.

LAVEESH BHANDARI

Founder & Director, Indicus

Laveesh Bhandari, a Ph.D. in Economics from Boston University, USA, began his career as a Consultant for Manhattan (now Brookdale) Funds, New York and Boston, USA. He then joined the National Council of Applied Economic Research, New Delhi, as a Senior Economist in 1997 where he led research teams for various studies in the industry and infrastructure division. Dr. Bhandari is the Founder Director of Indicus, set up in 2000. He has been a visiting faculty at IIT, Delhi and also worked as Managing Editor of the Journal of Emerging Market Finance. At present, he is Member of RBI's Steering Committee on Economic and Policy Research.

NIRVIKAR SINGH

Distinguished Professor at University of California, Santa Cruz

Nirvikar Singh holds the Sarbjit Singh Aurora Chair of Sikh and Punjabi Studies at the University of California, Santa Cruz. He also directs the UCSC South Asian Studies Initiative within Social Sciences. He is a member of the Advisory Group to the Finance Minister of India on G-20 matters. He has previously served as Director of the Santa Cruz Center for International Economics, Co-Director of the Center for Global, International and Regional Studies, Special Advisor to the Chancellor (all at UCSC), and Consultant to the Chief Economic Adviser, Ministry of Finance, Government of India. He received his PhD from the University of California, Berkeley, and his BSc and MSc from the London School of Economics, where he was awarded the Allyn Young Prize, Gonner Prize and Ely Devons Prize.

SURJIT S BHALLA

Chairman & MD, Oxus Investments

Surjit Bhalla is the Chairman and MD of Oxus Investments, a New Delhi-based economic research, asset management, and emerging-markets advisory firm. He holds a PhD in Economics from Princeton

University, and a Master in Public and International Affairs from Woodrow Wilson School, Princeton University. He is the author of *Imagine There's no Country: Poverty, Inequality and Growth in an era of Globalization* (2002) and *Devaluing to Prosperity* (2012). In the past, he has worked as a research economist at the Rand Corporation, the Brookings Institution, and at both the research and treasury departments of the World Bank. In India, he served as Executive Director of the Policy Group in New Delhi, the country's first non-government funded think tank. He has been on several government committees, including the two capital account convertibility committees of the RBI (1997 and 2006). He has also been a member of the Secondary Market Advisory Committee of SEBI and of the National Statistical Commission of India.

GURCHARAN DAS

Author & Public Intellectual

Gurcharan Das is an author and public intellectual and former CEO of Procter & Gamble India. After heading Procter & Gamble India and South East Asia, he became Managing Director, Procter & Gamble Worldwide (Strategic Planning). At 50, he took early retirement to become a full time writer. He is the author of many acclaimed works, including *India Grows at Night* (which was on the Financial Times list of best books for 2013), *The Difficulty of Being Good* and *India Unbound*. He is a regular columnist at major newspapers including the Times of India and Dainik Bhaskar; and also writes periodically in New York Times, Wall Street Journal, Financial Times, Foreign Affairs, and Newsweek.

R JAGANNATHAN

Editor-in-Chief, FirstPost & Forbes India

RJagannathan is a journalist and current Editor-in-Chief at FirstPost and Forbes India. In a journalistic career spanning 35 years, he has edited several national general and business publications, including DNA, Business Today, Business World, Business Standard, Indian

Management, and Financial Express. He was also Editor at myiris.com and has been involved with the revamp of the Business Standard website in the early 2000s.

ASHOK V DESAI

Indian Economist & Columnist

Dr. Ashok Desai is an economist and consultant with extensive experience in India and abroad. A former Chief Consultant with the Ministry of Finance, Government of India, he helped shape the new liberal policies instituted in 1991-1993 and has advised Indian and International organisations, including World Bank, UNCTAD and OECD Development Centre. Dr Desai is a commerce graduate from Sydenham College, Bombay and was awarded a Ph.D in Economics from Cambridge University. He has also spent two years at the Institute für Weltwirtschaft (Institute of World Economics), Kiel (Germany); scholar of Friedrich Ebert Foundation. Dr Desai has also served as Consultant Research and Planning Division, Economic Commission for Asia and the Far East, Bangkok where he contributed to work on manpower problems. He has also provided consulting on the working of the world fertilizer market whilst being associated with Food and Agriculture Organization, Rome.

His teaching experience spans 15 years. He has been associated with Delhi School of Economics, University of Delhi, Science Policy Research Unit, University of Sussex, Brighton (England), Center for Research on Economic Development and Policy Research, Stanford University. With various publications to his credit, he has been the Consultant Editor to the Business Standard and is currently the Consultant Editor for The Telegraph.

J P NARAYAN

Founder, Lok Satta Party

Dr. Jayaprakash Narayan is a physician by training who went into the Indian Administrative Service in the aftermath of the Emergency and failure of the Janata Experiment. He was a topper in the IAS

exam. During the 16 years of distinguished public service in various capacities, he acquired a formidable reputation in the erstwhile State of Andhra Pradesh. His experience in government convinced him that faulty governance process was the biggest hurdle to India and Indians achieving greater success. And what India needs today is a fundamental change in the rules of the game and not a periodic change of players. In order to translate his vision into practical reality, he resigned from Service (IAS) in 1996, and worked with like-minded colleagues for the formation of Lok Satta. Lok Satta has now emerged as India's leading civil society initiative for governance reforms. Dr. Narayan, through Foundation for Democratic Reforms, Lok Satta movement, and other fora, has been actively pursuing reforms in service guarantees in government offices, education, healthcare, local government empowerment, judicial and police reforms, various anti-corruption measures, and political reforms to transform governance, particularly at state and local levels.

NITIN PAI

Founder, Takshashila Institution

Nitin Pai is a co-founder of Takshashila Institution and a graduate of Lee Kuan Yew School of Public Policy (National University of Singapore), Nanyang Technological University, and National College, Bangalore. Nitin spent over a decade working in the Singapore government in various capacities, including deregulation, broadband infrastructure development, and strategic technology foresight. Nitin Pai blogs at The Acorn and has a monthly column in Business Standard.

PARTH J SHAH

President, Centre for Civil Society

Dr. Parth J Shah is founder president of the Centre for Civil Society. CCS advances social change through public policy. Their work in education, livelihood, and policy training promotes choice and accountability across the private and public sectors. To translate policy

into practice, CCS engages with policy and opinion leaders through research, pilot projects and advocacy.

Parth taught economics at the University of Michigan before returning to India to start CCS. He has published academic articles in the areas of development economics, welfare economics, business-cycle theory, free or laissez-faire banking, and currency-board systems. He has edited *Morality of Markets*, *Friedman on India*, *Profiles in Courage: Dissent on Indian Socialism*, *Do Corporations have Social Responsibility?*, and co-edited *Law, Liberty, and Livelihood*, *The Terracotta Reader*, and *Agenda for Change*. He writes regularly in newspapers and magazines.

BARUN S MITRA

Founder & Director, Liberty Institute

Barun Mitra is the founder and director of the Liberty Institute, www.InDefenceofLiberty.org, a non-profit, independent public policy research and advocacy organisation, based in New Delhi, India. Liberty Institute is dedicated to enhancing individual freedom in economic and political domains. Among the recognition the Institute has received was the Templeton Award for social entrepreneurship in 2003. Barun Mitra also received the 2005 Julian L. Simon Award for his contribution in environmental policy debates from the Competitive Enterprise Institute.

JAITHIRTH RAO

Founder & Former CEO, MphasiS

Jaithirth 'Jerry' Rao is the founder and former CEO of the software company MphasiS. He is currently the Executive Chairman of Value and Budget Housing Corporation (VBHC), an affordable housing venture which he founded in 2010. He is also a founder and director of Homefirst Finance Corporation, a Housing Finance company focused on providing housing finance to first time home buyers. Jerry is a regular writer and speaker; and was associated with the Indian Express as a columnist.

LORD ALDERDICE

Member of Parliament, House of Lords

John Thomas Alderice, Baron Alderice has served as Speaker of the Northern Ireland Assembly from 1998-2004, Leader of the Alliance Party of Northern Ireland from 1987-1998, and since 1996 has sat in the House of Lords as a Liberal Democrat. A graduate of Queen's University of Belfast, he worked part-time as a consultant psychiatrist in psychotherapy in the NHS from 1998 until psychiatric practice in 2007. He has also lectured at Queen's University Faculty of Medicine from 1991-1999. He has served as a member of Mental Capacity Act 2005 Committee, Science and Technology: Sub-Committee, and others. He is a Senior Research Fellow at The Centre for the Resolution of Intractable Conflict, Harris Manchester College.

SEETHA

Senior Journalist

Seetha is a senior journalist with over 30 years of experience in reputed newspapers and business magazines such as The Telegraph, DNA, The Economic Times and Times of India. She is the author of *The Backroom Brigade: How a few Intrepid entrepreneurs brought the world to India*; and co-author, along with R C Bhargava, of *The Maruti Story: How a Public Sector Company put India on Wheels*.

CENTRE FOR CIVIL SOCIETY

Centre for Civil Society advances social change through public policy. Our work in education, livelihood, and policy training promotes choice and accountability across private and public sectors. To translate policy into practice, we engage with policy and opinion leaders through research, pilot projects and advocacy.

FRIEDRICH NAUMANN FOUNDATION FOR FREEDOM

The Friedrich Naumann Foundation for Freedom (FNF) is an international non-profit organization promoting the ideas of liberal democracy, respect for human rights, rule of law and economic freedom.

FNF works on some of the most important issues related to liberalism such as the opening of the Indian economy, working with the police to transform into a democratically accountable service, making cities more liberal for their citizens, harnessing the power of the revolutionary Right to Information Act, ensuring property rights as well as dealing with the challenges thrown up by climate change. More recently, the Foundation has supported programs dealing with the challenges and chances of digital transformation.

FNF pursues these goals, which are part and parcel of the great Indian democratic tradition embodied in the Constitution, in partnership with policymakers, business leaders, national and international NGOs, universities as well as journalists and think tanks.

