

From Sampurna Swaraj to Sampurna Azadi: The Unfinished Agenda

C. K. Prahalad

*Paul and Ruth McCracken Distinguished University Professor,
Ross School of Business, The University of Michigan, USA*

**The Seventh Nani A. Palkhivala
Memorial Lecture
January 2010**



Published by
Nani A. Palkhivala Memorial Trust

NANI A. PALKHIVALA MEMORIAL TRUST

We hardly need to introduce you to the life and work of the late Nani A. Palkhivala. He was a legend in his lifetime. An outstanding jurist, an authority on Constitutional and Taxation laws, the late Nani Palkhivala's contribution to these fields and to several others such as economics, diplomacy and philosophy, are of lasting value for the country. He was a passionate democrat and patriot, and above all, he was a great human being.

Friends and admirers of Nani Palkhivala decided to perpetuate his memory through the creation of a public charitable trust to promote and foster the causes and concerns that were close to his heart. Therefore, the Nani A. Palkhivala Memorial Trust was set up in 2004.

The main objects of the Trust are the promotion, support and advancement of the causes that Nani Palkhivala ceaselessly espoused, such as democratic institutions, personal and civil liberties and rights enshrined in the Constitution, a society governed by just, fair and equitable laws and the institutions that oversee them, the primacy of liberal economic thinking for national development and preservation of India's priceless heritage in all its aspects.

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NANI A. PALKHIVALA

16th January 1920 - 11th December 2002

NANI ARDESHIR PALKHIVALA

In 1972-73 the full Bench of thirteen judges of the Supreme Court of India heard with rapt attention a handsome lawyer argue for five months before them that the Constitution of India, which guaranteed fundamental freedoms to the people, was supreme, and Parliament had no power to abridge those rights. The Judges peppered him with questions. A jam-packed Court, corridors overflowing with members of the Bar and people who had come from far-away places just to hear the lawyer argue, were thrilled to hear him quote in reply, chapter and verse from the U.S., Irish, Canadian, Australian and other democratic Constitutions of the world.

Finally came the judgment in April 1973 in *Kesavananda Bharati v. State of Kerala*, popularly known as the *Fundamental Rights* case. The historic pronouncement was that though Parliament could amend the Constitution, it had no right to alter the basic structure of it.

The doyen of Indian journalists, Durga Das, congratulated the lawyer: "You have salvaged something precious from the wreck of the Constitutional structure which politicians have razed to the ground." This "something precious" - the sanctity of "the basic structure" of the Constitution - saved India from going down the totalitarian way during the dark days of the Emergency (1975-77) imposed by Mrs. Indira Gandhi.

Soon after the proclamation of the Emergency on 25th June 1975, the Government of India sought to get the judgment reversed in an atmosphere of covert terrorization of the judiciary, rigorous press censorship, and mass arrests without trial, so as to pave the way for the suspension of fundamental freedoms and establishment of a totalitarian

state. Once again, braving the rulers' wrath, this lawyer came to the defence of the nameless citizen. His six-page propositions before the Supreme Court and arguments extending over two days were so convincing, that the Bench was dissolved and the Court dropped the matter altogether. Commented a Judge: "Never before in the history of the Court has there been a performance like that. With his passionate plea for human freedoms and irrefutable logic, he convinced the Court that the earlier Kesavananda Bharati case judgment should not be reversed."

This man who saved the Indian Constitution for generations unborn, was Nani Ardeshir Palkhivala. His greatness as a lawyer is summed up in the words of Justice H.R. Khanna of the Supreme Court: "If a count were to be made of the ten topmost lawyers of the world, I have no doubt that Mr. Palkhivala's name would find a prominent mention therein". The late Prime Minister, Morarji Desai, described him to Barun Gupta, the famous journalist, as "the country's finest intellectual". Rajaji described him as, "God's gift to India".

Nani A. Palkhivala, was for four decades one of the dominant figures in India's public life. An outstanding jurist, redoubtable champion of freedom and above all a great humanist.

Born on 16th January 1920, Nani Palkhivala had a brilliant academic career. He stood first class first in both his LL.B., (1943) exams and in the Advocate (Original Side) Examination of the Bombay High Court.

Nani Palkhivala was Senior Advocate, Supreme Court of India; Professor of Law at the Government Law College, Mumbai; Tagore Professor of Law at the Calcutta University; and a Member of the First and Second Law Commissions. He was elected in 1975 an Honorary Member of the Academy of Political Science, New York, in recognition of his "outstanding

public service and distinguished contribution to the advancement of political science.”

Nani Palkhivala argued a number of historical cases in the Courts of India and abroad, including the cases between India and Pakistan before the U.N. Special Tribunal in Geneva and the International Court of Justice at the Hague.

He authored a number of books including *The Law and Practice of Income-Tax*, a monumental work, which is the definitive treatise on the subject. His other books included *Taxation in India*, published by the Harvard University in the World Tax Series; *The Highest Taxed Nation in the World*; *Our Constitution Defaced and Defiled*; *India's Priceless Heritage*; *We, the People and We, the Nation*.

His expositions on the Union Budget in Mumbai and other places were immensely popular and attracted attendance in excess of 1,00,000. He eloquently espoused the cause for a more rational and equitable tax regime.

Nani Palkhivala was India's Ambassador to the U.S.A. from 1977 to 1979. He was in constant demand during this period and delivered more than 170 speeches in different cities, which included speeches in more than 50 Universities, on subjects as varied as Gandhi, the nuclear issue, human rights, India's foreign policy, civil liberties in India, Indian agriculture, apartheid and the Third World.

Two American Universities – Lawrence University, Wisconsin and Princeton University, New Jersey - bestowed honorary doctorates on him. Princeton was the first to do so on 6th June 1978. The citation reads:

“Defender of constitutional liberties, champion of human rights, he has courageously advanced his conviction that expediency in the name of progress, when at the cost of freedom, is no progress at all, but retrogression. Lawyer,

teacher, author and economic developer, he brings to us as Ambassador of India intelligent good humor, experience, and vision for international understanding. As we see the bonds of trust and respect grow between our two countries, Princeton takes pride in now having one of its own both in New Delhi and in Washington.”

Lawrence University honoured him with a doctorate of Laws on 28th March 1979. The citation said:

“What is human dignity? What rights are fundamental to an open society? What are the limits to political power? Ambassador Palkhivala, you, more than most, have pondered these great questions, and through your achievements have answered them.

As India’s leading author, scholar, teacher and practitioner of constitutional law, you have defended the individual, be he prince or pauper, against the state; you have championed free speech and an unfettered press; you have protected the autonomy of the religious and educational institutions of the minorities; you have fought for the preservation of independent social organizations and multiple centres of civic power.

As past president of the Forum of Free Enterprise and as an industrialist, you have battled stifling economic controls and bureaucratic red tape. You have always believed that even in a poor and developing country, the need for bread is fully compatible with the existence of liberty...

You are also an enlightened patriot and nationalist. You have successfully defended your country’s cause in international disputes before the special tribunal of the United Nations and the World Court at the Hague.

Never more did you live your principles than during the recent 19 month ordeal which India went through in what was called

'The Emergency'. When those who had eaten of the insane root, swollen with the pride of absolute political power, threw down the gauntlet, you did not bow or flinch. Under the shadow of near tyranny, at great risk and some cost, you raised the torch of freedom..."

In 1997 Nani Palkhivala was conferred the Dadabhai Naoroji Memorial Award for advancing the interests of India by his contribution towards public education in economic affairs and Constitutional law. In 1998 he was honoured by the Government of India with PADMA VIBHUSHAN. The Mumbai University conferred upon him an honorary Degree of Doctor of Laws (LL.D.) in 1998.

Nani Palkhivala was associated with the Tata group for about four decades. He was Chairman of Tata Consultancy Services, Tata International Ltd., Tata Infotech Ltd., the A.C.C. Ltd., and Director of Tata Sons Ltd. He was President of Forum of Free Enterprise from 1968 till 2000, and Chairman of the A. D. Shroff Memorial Trust from 1967 till his death.

C. K. PRAHALAD

C. K. Prahalad, the Paul and Ruth McCracken Distinguished University Professor at the Ross School of Business, University of Michigan, is one of the foremost business thinkers of our time. He was deservedly elected as the most influential living management thinker in 2007 and 2009 by Thinker 50, compiled by The Times of London and Suntop Media. He is more than an academic. He has worked with CEOs of the world's leading companies. He sits on the boards of NCR Corporation, Pearson, plc., Hindustan Unilever Limited, TVS Capital, The World Resources Institute (WRI) and The Indus Entrepreneurs (TIE).

He is a globally known figure, with his research specialisation in corporate strategy. He is the author of numerous award-winning articles. He has also co-authored with several other writers and penned books that have won him acclaim. Some of his books include, The Multinational Mission, Competing for the Future, The Future of Competition, The Fortune at The Bottom of The Pyramid, The New Age of Innovation: Driving Co created Value through Global Networks.

He has been honoured for his contributions with a Life Time Achievement Award by The Ross School of Business. He received Honorary Doctorates from the University of London (Economics), Stevens Institute of Technology (Engineering), University of Abertay, Dundee (Business) and University of Tilberg (Business). He was a member of the UN Blue Ribbon Commission on Private Sector and Development.

INTRODUCTION

The Nani A. Palkhivala Memorial Trust was privileged to have Prof. G.K. Prahalad deliver the Seventh Nani A. Palkhivala Memorial Lecture on the subject “From Sampurna Swaraj to Sampurna Azadi : The Unfinished Agenda”.

Prof. Prahalad’s central theme is that “the reality of India of 2010 is a far cry from the guiding principles in the Constitution” and “Every Constitutional principle is violated on a massive scale across the country”.

In support of this bold assertion, Prof. Prahalad presents a distressing array of statistics – the fact that there are more than 30 million cases pending in the law courts; the level of corruption estimated at one or two per cent of GDP; the illiteracy of a third of the population; the fragmentation of society through the statutory recognition of 4418 cases and OBCS; the growing menace of insurgency which has rendered 170 out of 560 districts ungovernable and the new-found fervour for the bifurcation of states.

Prof. Prahalad is not however a mere prophet of doom. On the contrary, his lecture is also a re-affirmation of his faith in the inherent strength of our democracy, his recognition of the impressive progress made in the last fifteen years, his confidence in the basic intelligence and skill of our people and his pride in being an Indian.

As he says, we have a lot to celebrate, but also a lot to be corrected. “The seeds of greatness and failure seem to co-exist”. He therefore reminds us that India today is at an “inflection point” and it needs urgently to choose the path of change and innovation. In this brilliant lecture, Prof. Prahalad points the way.

The lecture is a clinically precise analysis of the circumstances which have created the present crisis, the

manner in which we can “reimagine politics and governance” and the specific and innovative proposals by which this can be done.

This is no more than what one would expect of one of our most outstanding management gurus and a person who quite deservedly heads Crainer Dearlove’s ‘Thinkers 50’ list of the most Influential Business Thinkers.

This outstanding lecture makes compulsive reading for all citizens and policy-makers alike. In publishing this lecture and giving it the widest publicity, the Trustees hope that Prof. Prahalad’s ideas and suggestions will provoke the wide public debate which they deserve.

Mumbai,
16th February 2010.

Y. H. Malegam
Chairman
Nani A. Palkhivala Memorial Trust

From Sampurna Swaraj to Sampurna Azadi: The Unfinished Agenda

C. K. Prahalad*

It is a great honour and privilege to be asked to deliver the 7th Nani A. Palkhivala Memorial lecture. I approach it with great humility. As one who does not have an intellectual grounding in political science or legal doctrine, I am an unlikely candidate to do justice to the work and memory of Mr. Palkhivala. However, I was persuaded by both Mr. Y.H. Malegam and Mr. Deepak Parekh to accept this considerable task. So here I am.

I have a simple agenda. Mr. Palkhivala will always be known as one who fought to preserve the fundamental freedoms guaranteed by the Indian Constitution. He reminded us that the parliament is a creature of the Constitution and not the master of it, and therefore, the parliament does not have the authority to change the basic structure of the Constitution. His work preserved the institutional framework that guarantees freedom for all people. “We, the People” and not “We, the Parliament” continue to be the guiding light of the country. All Indians are indebted to him for this contribution.

** World renowned author and Paul & Ruth McCracken Distinguished Professor of Corporate Strategy, Stephen M. Ross School of Business, University of Michigan, USA. The text is based on the Seventh Nani A. Palkhivala Memorial Lecture delivered under the auspices of the Nani A. Palkhivala Memorial Trust on 14th January 2010 in Mumbai.*

However, the reality of India of 2010 is a far cry from the guiding principles set forth in the Constitution. Every Constitutional principle is violated on a massive scale across the country. I have no illusions about the challenges of ensuring that our ideals are reflected in the actual conduct of daily life. But our history and our future as a nation demand no less. And in order to achieve these aims and challenge entrenched behavior and expectations, I don't think new laws or even better enforcement alone are the answer. We must realize that achieving social justice in a complex polity such as India requires socio-political and administrative innovations. We have to "reimagine politics and governance" as it is practiced in India. We have to address the issues before us – corruption, separatism and inequality - by working to change the circumstances that create them.

I need to look no further than India's struggle for independence to know that this country is more than capable of conceiving and executing massive social innovations. Confronting military might with non-violent resistance - Satyagraha - was the epitome of a socio-political innovation. Similarly, social justice in India today cannot be achieved through exhortation or minor band-aids to an administrative structure created 100 years ago for colonial administration. India needs and deserves a massive dose of fundamental innovations in how it is governed. Indians must step forward and accept their responsibility to innovate. The changes that I am proposing today are far more modest than those delivered to us by prior generations. But where they fought to create a nation, we must innovate today because nothing less than our survival as one nation is at stake.

No other society in the world has tried to change a system as large and complex. What India needs are not best practices from somewhere outside India or even within India. India needs *Next Practices*. India must have the courage to

chart its own path. I plan to discuss this extraordinary opportunity for fundamental innovations in governance in India in three parts.

Part 1: The Basic Structure of the Constitution and its Violation in Practice

This will provide us a baseline understanding of the extent of deterioration in the realization of the basic guarantees in the Constitution that we face and therefore the *urgency* for innovations in governance.

Part 2: The Choices Open to India

India can continue to stay on course. I believe India is at an “inflection point”. The Naxalite insurgency is just the tip of the iceberg. India must choose the path of change and innovation, as difficult as it might be.

Part 3: Creating a Shared Vision

We must have a point of view of the India we want to create and how to convert the principles enshrined in the Constitution into reality. I would like to call this reality Sampurna Azadi. The basic structure of the Constitution guarantees Sampurna Swaraj. We have to work hard to guarantee Sampurna Azadi. I will outline some innovations that can help in the process of arresting the rapid deterioration in governance and move toward realizing social justice in a short period of time.

Part 1

Basic Structure of the Constitution in Practice

The essential architecture of the Constitution is based on five guiding principles: (a) rule of law, (b) democracy, (c) secularism, (d) federalism and (e) judicial review¹. These basic building blocks are accepted in principle. However, the political and administrative systems, in essence, have increasingly rendered them ineffective. It is important to recognize the difference, as Amartya Sen points out, between *Niiti* and *Nyaaya*. *Niiti*, refers to the institutional propriety and behavioral correctness and *Nyaaya*, the realized justice in practice². Maturation as a democracy, one would expect, would strengthen these building blocks of the Constitution and improve access to justice in practice. The concept of social justice is also a moving target. As Indians get better educated, better connected, and better able to understand their rights, they also become more sensitive to injustices. Aspirations are outstripping reality. India may have eliminated many of the worst forms of discrimination rampant during the early twentieth century. However, there is now a greater recognition of injustice. Let us look at some data.

Rule of Law

India's commitment to the rule of law during the last fifty years is unflattering. There has been a lot of debate recently on the delays in dispensing justice. There are more than 30 million

cases pending in Indian Courts. There are 53,000 cases pending in the Supreme Court, 4 million in High Courts and over 27 million in subordinate Courts. There has been a significant increase in pending cases – as much as 130% for the Supreme Court during the period 2000-2009. Over 25% of cases in the High Courts have been pending for over 10 years. Given these delays, it is difficult to understand why over 23% of Supreme Court, 26% for High Court and 18% of the subordinate Court positions that have been approved have remained unfilled. India's judge to population ratio is also very low at about 12.5 per million people compared to 104 per million in the United States³. The Law Commission as early as 1987 recommended that the ratio be raised from 10.5 to 50 immediately and to about 100 by 2000. A Parliamentary Standing Committee reinforced this recommendation in 2002⁴. While there is a significant backlog, the number of new cases filed is still registering an upward climb. The increasing load of Public Interest Litigation (PIL) is adding to the problem. *Is this a measure of Indians' unshakable belief in the rule of law? Or do delays create the incentive to file more cases?* The problem or poor management of the judicial system is well known and well researched. The solutions are also well known. *Why then this apathy?*

Corruption in the judicial and police system is also endemic. To start with it is estimated that over 70% of prisoners in Indian jails are under-trials. Even senior High Court judges are seen as corrupt. The corruption in the police force is also well documented.

India rates very poorly in a study by the Transparency International⁵. Over 77 % of the Indians believe that the system is very corrupt. That is a very high number. It puts India in the same company as Pakistan and Bangladesh. More importantly, one in three who have had any contact

with the police or the judiciary said that they had to pay a bribe. This is a gross violation of the building blocks of the Constitution. The implications of this level of corruption are two fold.

- a. It ensures that the citizens are denied their basic rights guaranteed by the Constitution. It is also an *implicit tax* on the poor. Getting access to what is their right - be it a ration card or a birth certificate - should not cost anything. But it does in reality. Corruption is so pervasive it touches all citizens.
- b. Secondly, corruption and the subversion of the rule of law have a significant influence on the economic development of the country. Dr. Manmohan Singh, the Prime Minister and Mr. Pranab Mukherjee, the Finance Minister, have openly acknowledged the impact of corruption on development. The estimates are as much as 1-2 % of the GDP.

Violation of the rule of law subverts the basic “*transaction governance capacity*” of the country or its ability to enforce explicit and implicit contracts between citizens and citizens and institutions, including the government. A shift in political ideology, i.e. market based systems in contrast to central planning and socialism is not enough. The capacity for transaction governance is crucial. Consider India and China as of 1992⁶. While China was in the process of trying to change the opaque and idiosyncratic process of contract enforcement in the country as a way to facilitate foreign direct investment, India was regressing. From a great start in 1947, the transaction governance capacity significantly regressed in India. The political process has systematically compromised the freedom of institutions - judiciary, the executive branch, the police, businesses and the media. It is time for this trend to be arrested and the trajectory changed.

Democracy

India can justly be proud of its record as a democracy. Over 60 years, India has held national elections over 15 times. More than 700 million people are eligible to vote and about 70% go to the polls. The Election Commission has remained independent. During the 2004 and 2009 elections the polling was totally electronic which significantly reduced the opportunity for vote tampering. However, coalition politics creates its own dynamic in governance. *It creates alliances without principles.* The first coalition in 1977 was put together by Mrs. Indira Gandhi that was a combination of The Indian National Congress (Indira), the Anna Dravida Munnetra Kazhagam, the Communist Party of India, the Jammu and Kashmir National Conference, the Indian Union Muslim League, the Kerala Congress Revolutionary Socialist Party and two independents. She was defeated in the elections that year and Mr. Morarji Desai of the Janata Dal formed a government of five opposition parties. In 1996 when the government led by Atal Bihari Vajpayee lasted only 13 days, a new attempt was made to form a government called the United Front under Mr. Deve Gowda, a 14 party coalition. In 1997, Inder Kumar Gujral formed a 16 party United Front Coalition. This pattern of coalitions of convenience continues both at the centre and in many of the States.

Fragmentation of the polity at the national and state levels extracts its own price. Public policy does not necessarily reflect the will of the majority. Small groups can have a disproportionate influence. Economic reforms can be held hostage by a very small minority. It is also difficult for the government to discipline and hold accountable ministers who recognize their power to destabilize the government. *In an interesting twist, coalition governments have in reality turned public policy in India to reflect the “will of the minority” - the few who control the swing votes.”*

The demand for divisions of States such as Telangana, Gurkhaland or Bodoland is yet another example of fragmentation. There is an argument for smaller States to improve governance. However, in a climate of identity politics, there is also a danger. Dr. Ambedkar was very prescient. In his speech introducing the Constitution he had this to say :

“Will history repeat itself? It is this thought which fills me with anxiety. This anxiety is deepened by the realization of the fact that in addition to our old enemies in the form of castes and creeds we are going to have many political parties with diverse and opposing political creeds. Will Indians place the country above their creed or will they place their creed above country? I do not know. But this much is certain that if the parties place creed above country, our independence will be put in jeopardy a second time and probably be lost for ever...”

Coalition politics is proving that his anxiety was appropriate. Block voting on the basis of castes and local identity politics may continue to render coalition politics a reality. The media has coined even a new term “coalition math”. Consider the coalition process in Jharkhand in 2010. The alliances will have no logic except to form a government with Mr. Shibu Soren as Chief Minister out of a “hung Assembly”. However, the improved mandate of the Congress Party in the most recent election (2009) provides hope that unprincipled coalitions of convenience may become a passing phase in the march of Indian democracy.

Secularism

Secularism is an age-old tradition in India. Secularism never meant discarding religion. In India, it meant that the State will be “equidistant” from all religions, but each one is free to practice his or her religion without any interference from the state. Emperor Ashoka recognized this more than 2,200

years ago. In his edicts his beliefs about religions are well documented.

“All religions should reside everywhere, for all of them desire self-control and purity of heart.”

Rock Edict Nb7 (S. Dhammika)

“Contact (between religions) is good. One should listen to and respect the doctrines professed by others. Beloved-of-the-Gods, King Piyadasi, desires that all should be well-learned in the good doctrines of other religions.”

Rock Edict Nb12 (S. Dhammika)

Similarly, Akbar in 1590 recognized that India is too complex to be governed without secularism. He married into Hindu royal families, made Rajputs his generals and most importantly ensured that throughout his kingdom there was religious tolerance. He said that the “duty of the state included making sure that no man should be interfered with on account of his religion, and anyone was to be allowed to go over to any religion he pleased”⁷. These are the traditions that we have to live by. The framers of the Indian Constitution recognized the essential nature of secularism in India. It is not the negation of religion but equal treatment of all religions under the law.

Sectarian violence, sporadic as well as large-scale violence, has been happening with disturbing frequency during the last thirty years. The Sikh riots (1984), Ayodhya and the Babri Mosque (1992), Godhra and Ahmedabad riots (2002) were significant blots on Indian character. More disturbing is the increasing incidents of religious conflicts that do not get public attention. For example, during 1989-90, more than 390,000 Kashmiri Pandits left the valley under threat of death⁸. The anti-Christian violence is also spreading. Between 1964-96, there were 38 reported cases. In 1998, there were 90 and over the

years it is more than 100 incidents per year. Be it the Northeast, Jammu and Kashmir, the Hindi heartland, or Gujarat, the tensions between religious and caste groups are palpable.

Given India's composition, Indians must learn to live together. The reality is that the politics of 'group rights' may be leading the country in the opposite direction - to further fragmentation. At the birth of the republic in 1950, the government reserved 22.5% of government jobs and seats in educational institutions for Scheduled Castes (Dalits) and Scheduled Tribes (Adivasis). The Kaka Kalelkar Commission identified 2,399 castes in its 1953 report. In the Mandal Commission Report, the number had gone up to 3,743. By 2005, it stood at 4,418. The proliferation of the number of castes and those classified as Other Backward Classes (OBC) is an indication of the wide-spread scramble to access sources of economic power - education and jobs. In some states such as Tamil Nadu, 69% of the seats in institutions of higher learning are reserved.

It is increasingly clear that merely increasing the reservation quotas will *not* deliver the desired results. While reservations may be a necessity to correct the legacy of social injustices the current trajectory suggests that the polity in India can get further fragmented. As elections and policies further reinforce this fragmentation, secularism is likely to suffer.

There is a structural shift in India that may slow down this process of continuous fragmentation. It is expected that over the next 20 years as much as 300-350 million people will migrate from villages to the cities. Cities connect the poor to the benefits of commerce; better access to services compared to the village and more weight on skills than caste backgrounds.

Federalism

The State and Central government relationships are evolving⁹.

The tense relationships between the States and the Centre in defining their respective orbits of influence, especially when the parties (and coalitions) in power do not agree can lead to interesting dynamics. For example, during the decade of 1950-59, State governments were dismissed using Article 356 six times. During the following decades the numbers escalated rapidly. For example, during the decade of the 60s state governments were dismissed 11 times, 7 of which happened during 1967-69. In the 70s, it was done 40 times, nine of which was in 1977. It came down in 1980s to 22 and to 15 in 1990s. Five out of the 15 incidents of President's rule during the 1990s, was in the North East. As the Centre weakened with coalition governments and as the regional parties became dominant in many States, the ability to override the power at the State level diminished as well. If the first phase of relationships between the Centre and the States was defined by a strong national party in power at the Centre, in many States coalition politics represents the second phase of the emerging, if implicit, dialogue. Coalition politics may have rendered the excesses of the 1970s a thing of the past.

The new debate in the Federal structure is exemplified by the demand for Telangana. There was almost 30 years of stability to the number of States in the Union. However, during 2000 three new states were carved out of Bihar and Orissa – Jharkhand, Uttranchal and Chhattisgarh. The Telangana issue is likely to trigger another difficult debate. What criteria should we use - governability and responsiveness of the government (based on size of the population), or deepening identity politics? Andhra Pradesh was split from the Madras Presidency and Gujarat from Maharashtra based on language. What should the new criteria be? Telangana and Andhra will still have the same language. This debate is likely to consume significant national attention and may herald the next phase of the evolving Federal-State relationships.

Judicial Review

Judicial Review is sacrosanct. As Mr. Sorabjee argued in his Palkhivala lecture of 2008, judicial activism is well and alive in India. He said :

“Quest for justice, especially social justice and relief of human suffering is the paramount motivation for judicial activism. And remember that the fundamental rights of our people will remain ornamental show pieces and become teasing illusions unless they are translated by activist judges into living realities and become meaningful at least to some downtrodden and exploited segments of Indian humanity.”

He concluded thus :

“Judicial activism will certainly be a boon if there are sensible, sensitive and courageous judges who do not flinch from deciding against the government of the day, judges who are not swayed by popular praise or clamour, judges who do not make judicial restraint a pretext for self-abnegation, judges who exercise judicial power actively and vigourously, and without straying into forbidden fields. And I venture to say that, occasional judicial aberrations apart, India is one such country and I thank the Almighty for that and pray that their tribe may increase and judicial activism proves beneficial to “We, the People of India”, and enables them to live a life of dignity and fully realize their human personality”¹⁰.

I wholeheartedly agree with his extremely well argued position.

Overall Score-card

India has fared well overall. India during the last fifteen years has come out of hibernation. Even poorly governed States are making progress. Consider the growth rates during

2007 - 2008. Bihar grew at (13.8%), Jharkand (11.1%), and Orissa at (13.8%)¹¹. There is a lot to celebrate. While there is noteworthy progress, India is also regressing in many aspects of governance. *The seeds of greatness and failure seem to coexist*. While I have always been the optimist about India highlighting her opportunities and successes, today I plan to focus on the incipient dangers to India's continuing success. There are obvious blemishes in the record in the practice of the principles enshrined in the Constitution. The reasons for this are many. But the most important are the following in my opinion :

- a. Converting a "shortage economy" into an opportunity for personal gain. A significant "rent seeking behavior" has developed at all levels of government, be it the legislative, executive or the judiciary. Corruption is pervasive and it gnaws at the very vitals of the rule of law. Most people take corruption as a "way of life" and do not believe that it can be solved in our lifetime. There is a sense of resignation and acceptance of the status quo. This corrosive influence, if not corrected in time, can make a mockery of the Indian Constitution and its basic architecture which Palkhivala so valiantly defended.
- b. Political fragmentation and the focus on caste based "group rights" and coalition politics may become a divisive force challenging the ability of governments to do what is right. What is *expedient and urgent will dominate what is right and important*. We see it already.
- c. Judicial activism may now be the basic protection against violations of the rights of "We, the People" in practice, protecting them from both the transgressions of the legislative and the executive branches.

d. The basic question that we face is: What are the responsibilities of power?

Given this mixed score card how do we move forward? What should citizens be concerned about? How can they help change the trajectory?

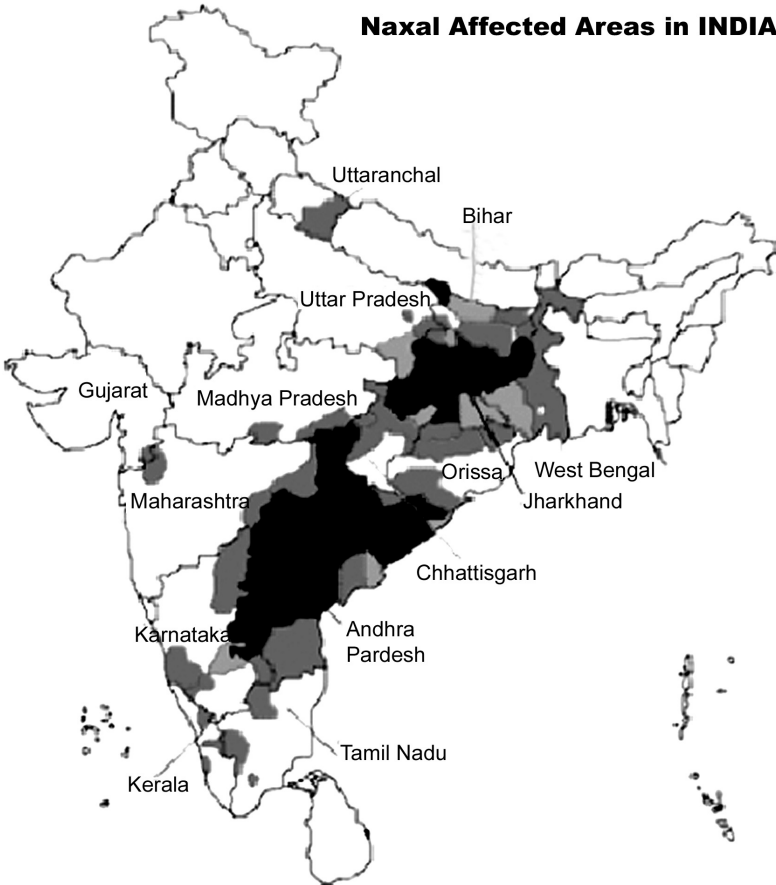
Part 2

Changing the Approach

We have to recognize that we are at cross roads. Already 170 districts in India (out of 560) are ungovernable. The Naxalite problem may be an indication of the corrosive influence of apathy, callousness, and denial of basic requirements of social justice, the rule of law, and access to opportunities such as education, healthcare and jobs. The spread of Naxalite insurgency must be a cause for concern for all of us. The Prime Minister called this “the single biggest internal security challenge faced by our country”. The problem is essentially a result of over 50 years of callousness, corruption, and exploitation and the resultant violation of the basic rights of people. The ingredients that spread insurgency are clear. They are low or non-existent commitment to human development (education, health care, jobs) and high levels of corruption largely in the form of exploitation of land and a marginalization of the native peoples’ rights. It is no surprise that the Naxalite movement is the strongest in areas where the human development index is very low and corruption index is very high.

We have within us the ability to change this process of deterioration by making the administration and governance of India more transparent, less exploitative and more equitable. The problems of governance in India are not a

Naxal Affected Areas in INDIA



Total Affected Districts - 170

States - 15

Source : Kr is Millet : The Naxalite Movement : Exposing Scrapped segments of India's Democracy, January 5, 2008, Culture Magazine.

case of a lack of resources. They are due to a lack of accountability and apathy on the part of leaders. For a radical change of the status quo we have to start by understanding the origins of rent seeking behaviour in India. *Why is there so much corruption? Is this an indication of national character or a result of the structures of governance that we*

have created? I believe that it is a structural problem. We can innovate our way out of it.

Supply–Demand Imbalance

In every country, supply-demand imbalances create opportunities for rent seeking. Consider India under the License-Raj. Many of us will remember the long lines for buying a telephone, a car and even a two-wheeler. Why? The demand far exceeded supply and there were artificial restrictions imposed on growth (supply) through licensing. The distortions of market mechanisms caused by the License-Raj, forced an alternate market to evolve. *Corruption became a substitute for the market.* People in power, both politicians and bureaucrats recognized that they could arbitrage this supply-demand imbalance by charging a premium for privileged access. Today, with plentiful supply, there is no need to seek special favours to get a telephone, or a car or a motorbike. So the first reality of corruption in India, is that we must change the supply-demand imbalance as follows.

Domestic Supply + Imports > domestic demand

We can get rid of significant part of the corruption that exists.

A similar shortage exists in higher education. When the capacity was very restricted, every applicant had to either pay “capitation fees” or know someone of importance to get admission. Engineering schools are over built in Andhra Pradesh. Andhra Pradesh has between 350-450 engineering schools (depending on which dataset you believe in) and more than 130, 000 – 140,000 seat capacity. That is 20% of the nation¹². Now that there is excess capacity, the engineering schools are scrambling to get students. Students and parents can now focus on quality and pick and choose in a fashion no different from scooters or telephones. The engineering schools are also diversifying their offerings to

protect their investments by changing the product mix. Many are considering a shift to vocational training as well.

While Andhra Pradesh is awash with engineering education capacity, it is also useful to remember that this is a very asymmetric development. Four States - Andhra Pradesh, Karnataka, Tamil Nadu and Maharashtra – account for about 57.6% of the engineering seats. Uttar Pradesh, Bihar, Rajasthan, Chhattisgarh and Jharkhand taken together account for only 19% of the seats; less than Andhra Pradesh.

Of course in a system used to complex and opaque rules and the politicians' or bureaucrats' ability to interpret it, there exists a new opportunity to arbitrage. This is evident in the acquisition of land, getting environmental permits, mining concessions, or auctioning the mobile spectrum. There is the *time* value to money. Therefore delays are worth money. Similarly, *access to scarce* resources is monetizable. So creating a complex system that makes access difficult and not transparent is of value. This process permeates from the low level corruption such as in accessing land records, getting a caste certificate (critical to get access to admissions to schools), or ration cards (a form of ID for a host of access points for government initiated programs), to large scale corruption such as approvals for SEZs (Special Export Zones) or accessing the 3G spectrum.

Asymmetric Access to Opportunities

Inequality of opportunities is a major contributor to corruption and distortions in the role of social institutions. *For example, in the absence of equality of access to educational opportunities, especially K-12, it is not difficult to come to the conclusion that access to jobs must be based on criteria other than merit.* More importantly, only the well to do and those in urban areas get access to learn English, a prerequisite for

admissions to elite colleges and well paying jobs. It is no surprise that parents, both poor and rich, are clamouring for an English education for their children. English has overtaken Hindi as the desired medium of instruction in India. Politicians who supported local language as the basis for instruction, and some still do, have to recognize that the bottom up revolution in India is about getting access to good quality education that will provide access to job opportunities. *People want universal access for good quality education and at the political level the fight is for privileged access with little or no focus on quality.* Caste-based reservations have become the norm. Every group and politician wants to fight for minority rights. This is a direct and logical consequence of the failure to come to terms with “inequality of opportunities”. Too much of the national focus is on “inequality of incomes” but not the root cause, which is inequality of opportunity. It is not surprising that politicians focus on group rights as a way of mediating the problems through caste-based reservations.

Campaign Financing

The 2009 Lok Sabha elections is reported to have cost the country about Rs. 10,000 crores. Of this Rs. 1,300 crores was spent by the Election Commission and Rs. 700 crores by the Central and State governments for photo identity cards, electronic polling machines etc¹³. Political parties and individual candidates spent Rs. 8,000 crores. This is about Rs. 15.5 crores/constituency. Just the Lok Sabha election cost the country over Rs. 8,000 crores in private spending. If we include the cost of elections in the States and in major metros, the overall private spending in India, in elections, could easily exceed Rs. 25,000 crores. I cannot but assume that private funding of elections of this magnitude is predicated on making an appropriate return. Given the risky nature of the investment in elections, politicians as venture capitalists, we

can assume will not settle for a less than a ten- fold return. The cost to the country in corruption can exceed Rs. 250,000 crores. The economic and developmental impact of this level of corruption is even harder to estimate.

This drain on the country due to corruption gets worse with time. Corruption increases the private spending capacity. The cost of elections to the Lok Sabha has systematically gone up. It was estimated at Rs. 2,200 crores in 1996, Rs. 3,200 crores in 1998, Rs. 4,500 crores in 2004 and Rs. 10,000 crores in 2009. There has been a three-fold increase in 10 years. A similar pattern may apply to State and local elections as well. *This vicious cycle of corruption leading to more corruption is a reality.* No one is exempt from this process. Every party and all candidates understand this reality. *Corruption, in an interesting way, funds and supports the electoral process while subverting the rule of law and the basic social justice that the government of “We, the People” is supposed to uphold.*

These are systemic problems. The system, which created the structure of entitlements, arbitrage opportunities and supply-demand imbalances, and election campaigns that foster corruption, is unlikely to change it. There is a significant vested interest in maintaining the status quo. We need to break through the system and innovate.

Part 3

Innovations for Social Justice

We need to start with the root causes if we have to considerably reduce the imperfections in the system. They relate to a few key areas :

- a. *Reduce the Asymmetry of Information:*** Poverty is a result of asymmetry of information. A farmer does not know the prices of vegetables in the city but the middleman knows. This allows the middlemen to hold subsistence farmers hostage. The experiment that ITC eChoupal represents is illustrative of the power of information¹⁴. The farmers can now check the prices and can decide when to sell and at what price. The role of the middlemen and that of the Mandi has been transformed. The farmer can get the right price, can enforce contracts and can be connected to the regional and national markets. Isolation, ignorance and dependence can be removed rather easily. The rapid diffusion of the cell phone in India, in this context, is a welcome development. All Indians can have access to information when they want it. Similarly, increasing *access and transparency* can have a significant effect on governance. The Right to Information Act is a great start. But making governance visible and therefore accountable is critical. Democracy requires its citizens to be well informed

and therefore able to exercise their rights diligently. This is an ongoing process.

- b. Reduce the Number of Points of Interpretation of Laws:** The more opportunities for interpretation, regardless of whether laws are vague, citizens lack information or citizens do not believe that they will get access to justice in a reasonable amount of time, the greater the opportunity for arbitrage and corruption. Making core processes that touch a large number of citizens such as access to subsidies, implementation of the National Rural Employment Guarantee Act, access to land records, tax records, or tax refunds, standardized and routine is a prerequisite.
- c. Increased Accountability:** Forced ranking of the performance of the bureaucrats, politicians, and the judiciary on implementation of key initiatives is critical. Consider for example, ranking of all High Court justices on the number of cases disposed (productivity), quality of judgments (verdicts reversed in a higher court), ageing of cases pending before a judge, *time it takes to provide the judgment after the arguments are complete* and number of adjournments granted (measures of delays) would be appropriate. I am sure we can think of simple and clear measures of accountability for almost all functions of the government. Measurement of performance is not enough. *There must be clear consequences for poor performance.*

Key Initiatives

A Perspective on Indianness :

Radical innovations start with a point of view. What has been lost during the last 50 years in India is a view of Indianness. What does it mean to be an Indian? What rights are all Indians

entitled to? What do we believe in collectively? What will we defend with our blood? What informs our domestic and foreign policy? We had a point of view during the freedom struggle. For example, Gandhiji taught us three important lessons in this regard :

- 1.) Indianness meant non-violent struggle.
- 2.) It meant total engagement of all – rich-poor, rural- urban, men and women. The unifying symbol of resistance was the Charka. It was more than a simple device. He wrote in *Young India* in 1925:

“The message of the spinning wheel is much greater than its circumference. Its message is one of simplicity, service to mankind, living as not to hurt others, creating an indissoluble bond between the rich and the poor, capital and labour, the prince and the peasant. The larger message is naturally for all”.
- 3) Finally, Indianness meant inclusion of all religions in the broad struggle. *Ishwar or Allah is all your name* was the refrain.

Jawaharlal Nehru built on this foundation. In his oft-quoted speech on August 15, 1947 he laid out obligations of all Indians and the meaning of Indianness.

“...The future beckons to us. Whither do we go and what shall be our endeavour? To bring freedom and opportunity to the common man, to the peasants and workers of India; to fight and end poverty and ignorance and disease; to build up a prosperous, democratic and progressive nation, and to create social, economic and political institutions which will ensure justice and fullness of life to every man and woman....

...We have hard work ahead. There is no resting for any one of us till we redeem our pledge in full, till we make all

the people of India what destiny intended them to be. We are citizens of a great country on the verge of bold advance, and we have to live up to that high standard. All of us, to whatever religion we may belong, are equally the children of India with equal rights, privileges and obligations. We cannot encourage communalism or narrow-mindedness, for no nation can be great whose people are narrow in thought or in action..."

All democracies need to remind themselves periodically of who they are and what they stand for, especially in difficult times. Roosevelt, in his address to the 77th Congress, in 1941, had this to say about the United States :

"...Certainly this is no time for any of us to stop thinking about the social and economic problems which are the root cause of the social revolution which is today a supreme factor in the world. For there is nothing mysterious about the foundations of a healthy and strong democracy.

The basic things expected by our people of their political and economic systems are simple. They are:

- Equality of opportunity for youth and for others.
- Jobs for those who can work.
- Security for those who need it.
- The ending of special privilege for the few.
- The preservation of civil liberties for all.
- The enjoyment — the enjoyment of the fruits of scientific progress in a wider and constantly rising standard of living.

These are the simple, the basic things that must never be lost sight of in the turmoil and unbelievable

complexity of our modern world. The inner and abiding strength of our economic and political systems is dependent upon the degree to which they fulfill these expectations...”

Just as Roosevelt reminded Americans of the basic promise that America makes to all its citizens and what it means to be American, it is also time that Indian leaders restate the unique identity and the obligations of Indians to each other. Sixty years later, we have no one to remind us of what Indianness means any more. Very few would articulate it as well as Jawaharlal Nehru did or practice it so vigorously as Gandhiji did. More importantly, most Indians do not have a sense of the extraordinary scope and scale of the social experiment they are an integral part of. By mutual consent and through collective action, India has the potential to be a beacon of hope for the whole world. India can match the grandeur of the accomplishments of the United States in creating a system that Abraham Lincoln so aptly described as the “government of the people, by the people and for the people”. But a sense of Indianness is a prerequisite to accomplish this goal. We have to focus on the very “non-negotiables” of what it means to be an Indian. This must be the starting point for moving forward.

Universal ID: The building block of Social Justice

Indians traditionally use multiple identification systems ranging from passports, Permanent Account Numbers (PAN) for income tax, Voter Identity Cards to register and vote in elections, ration cards, Below Poverty Line (BPL) cards and a host of others. Each one of these identification cards are architected differently and none is universally accepted. The government-citizen interface as a result is rendered unnecessarily complex. The multiplicity of identity cards also renders the provision of services, be it the National Rural

Employment Guarantee Act or subsidized rations difficult to monitor. The intended beneficiaries rarely get the full benefits due to them. Leakages in the system are hard to detect, much less control.

The need for a tamper proof, single ID that allows all government-citizen relationships to be managed effectively is obvious. This can provide access to services and transparency in how those services are delivered. A universal ID card would reduce the chances of corruption as the role of intermediaries, be they local politicians and bureaucrats who come in between the government's intentions and the citizen are partially dis-intermediated. Needless to say that this is a massive job whether technically, politically or socially. The task is not in just issuing identity cards that are tamper-proof but in managing the massive database that this entails. The challenge is in architecting a unique system that is low cost that allows for multiple current applications and is flexible enough to accommodate new applications as it evolves. Further, India will be the first country to issue a single ID on such a scale in the age of mobile phones and ubiquitous connectivity. The opportunity for innovations in architecting the system, in deploying it, and in effectively dis-intermediating layers of bureaucracy between the citizen and government - is immense. The government of India must be congratulated in taking this first step - providing a unique identity to every Indian regardless of religion or economic class. This can also be the first step in focusing on the *rights of an individual and not just the rights of a group. That is why I believe that the Universal ID is the basic building block of the social justice that the framers of the Constitution had in mind.*

Focus on Massive Education: Eradicating Opportunity/ Inequality

India will remain unequal as long as its citizens do not have

equal opportunities for a good education. After 60 years of independence, India still has one of the largest illiterate populations in the world. 35 % of India is illiterate according to the 2001 census. That is more than 300 million people. This represents a population nearly as large as the entire population of India at the time of independence or the population of the entire United States today. It is clear that India has failed in its educational mission. More worrying is that half of the children in Class V cannot do simple two digit division problems (ASER 2008). Nor is there sign that things are changing fast. The reading and math scores reported in ASER have not changed measurably over the last four years.

This failure is not about adequate resources. Most children now have access to a primary school within walking distance. Most schools have teachers. However teachers often do not show up (MHRD estimates that only 70% attendance by teachers in rural schools) and even when they show up, they only teach about half the time. Abstenteism is rampant. In Jharkand it is 42% followed by Bihar at 37% and UP at 23%¹⁵. The differences between States are disturbing. Kerala with 90% plus literacy and Bihar with less than 45%. Similarly, gender inequalities are staggering. Only 45 % of women are literate compared to 75% men. Poor literacy is also associated with States where the population of Dalits and tribals are significant. *This is clearly a failure of the public delivery system.* Moreover, there are 17 ministries in the Centre focused on some form of educational initiatives whether it pertains to specific skills or basic education. Further, education is a State subject. So the ability to enforce common standards is low. This situation calls for a radical innovation.

The primary starting point is to focus on methods that can remedy this situation in a very short period of time. I

suggested in my vision for India @ 75 that the first step is to educate 500 million Indians in world-class skills¹⁶. This assumes 100% literacy and a quality of primary and secondary education that can lead to the development of monetizable skills or access to college education. The idea of 500 million people to be educated in skills has been accepted and was part of the President's address to the Parliament in 2009. This means that the preconditions for innovation in education can now be defined -

<u>Objective</u>	<u>Implication</u>
Inclusion	affordable and accessible
500 million	unprecedented scale
10 years +	sense of urgency
World Class	rigorous with global benchmarks
Monetizable	relevant to industry
Fungible	a mix of basic theory and practical skills

Inclusion will require that we not only focus on cost but delivery to remote areas. Access to education in rural India may be as critical as cost of delivery. Scale and urgency are obvious. We have a demographic volcano ready to erupt if young people do not acquire the skills that will enable them find reasonable jobs. Forcing global standards will allow Indian skills become marketable anywhere in the world. Finally, it must be fungible. We should ensure that we provide enough theory (e.g. physics, chemistry, math and language) to enable students to move up skill levels (e.g. take college courses and become engineers) or to shift skill clusters (e.g. hospitality to programming). Needless to say, we need to learn to *harmonize these objectives* in developing detailed plans for implementation.

Such a massive program of education is unprecedented and

will need the most creative approach to content development, delivery and assessment of progress. The ubiquitous connectivity allows us a new approach to improving the quality of student engagement in learning. *We will have to move away from a total dependence on teacher and school-centric delivery mode.* Why can't a student in rural Bihar get access to the best teacher in physics in the country? Why can't she or he download a lecture, a problem set and work with their peers to learn? Why can't learning be modularized? Why can't a student test herself against her cohorts not just in her village but also in the district or the nation? All this is possible today. The technology is available.

Delivering on innovations of this scale requires a coordinated effort. *Does India need a Central Skills Development Authority that brings together diverse initiatives as in the Universal ID project?* Human dignity and self-esteem comes from being educated, being skilled and well prepared for employment. India cannot deliver on this goal unless we make basic approach to universal education and skill development a focused effort, which is clear, unambiguous, and non-negotiable.

Focus on Citizen-Centric Governance

As a democracy, Indians can choose their leaders. In this sense it is a government of "We, the People". However, the governance of India is very institution-centric. What citizens encounter are an unresponsive and corrupt police, bureaucracy, politicians and judiciary. The power clearly rests with the institutions. This power asymmetry between citizens and the institutions of government is not peculiarly Indian. *It is just far more pronounced in India.* How do we rebalance the power between the institution and the citizen? How do we make institutions responsive? This too requires innovations.

The first step is a review of the laws that govern the day-to-day lives of citizens. Most of the laws in India have a colonial past. The Indian Telegraph Act of 1855 governs all the telecommunications and broadcasting regulations in India. The Indian Penal Code is from 1860. Indian Contract Act was enacted in 1872. The Official Secrets Act is from 1923. The Banking Regulation Act is from 1949. Needless to say, the Acts have been amended and interpreted many times. The sheer architecture of these laws reflects a different context and social system of the country. This makes it difficult to apply the law to new situations not even imagined when the laws were written. What to preserve of the past and what to discard is a decision that is critical to move toward a more citizen-centric governance.

Former Prime Minister Vajpayee, in his second term, promised to rewrite the laws. It was a stalled process. We need to renew the process. A subset of laws, if not all of them, need a fresh look and must be architected to suit today's needs and rendered simple, easy to understand and capable of being reduced to few clear rules that require very little interpretation. If not, they should be scrapped. This is the first step towards e-governance.

As India gets educated and as well connected Indians depend more on their cell phones and laptops for work and information, e-governance can become a way for citizens to interact with their government. Initiatives in e-governance in Andhra Pradesh and Karnataka have demonstrated that people are willing to accept the electronic alternative as long as it is easy to use. The use of Universal ID, universal education and ubiquitous connectivity can collectively make e-governance a reality.

E-governance combined with the Right to Information Act, allows individual citizens to evaluate the performance of the

politicians who represent them and the bureaucrats who manage the institutions of government. Score-cards are easy to overlay on databases that e-governance creates allowing for the monitoring of delays or violations of rules. Transparency and accountability are easier to safeguard in such a system.

Strengthen Local Management

India is too complex to be governed centrally. That said, we must have non-negotiable national standards regarding laws, the rules of engagement of government with citizens, obligations of Indians to each other and a collective view of Indianness. We must be focused on the rights of individuals and individual identity, providing equal opportunities and creating a transparent system of government. At the same time we must be sensitive to and responsive to local context. The task in Kerala in education is different from Bihar. The law and order situation in Ranchi is different from Mysore. *We must be nationally integrated and locally responsive simultaneously.*

Local management has a long history in India. The Panchayat has a long history going back to the Vedas. While in the Northern part of India, it was rendered somewhat ineffective during the Moghul rule, in the South it flourished. The Chola Kings, especially the great Raja Raja Chola made a clear distinction between central management of his Kingdom and local responsiveness. The principles of revenue management and audit were centrally managed. However, local groups had significant authority to manage locally. An excellent example is the management of water and the building of lakes and water allocation and conservation. The King got involved in laying out principles but was locally administered based on local conditions *while maintaining common standards across his empire.*

Panchayati Raj was not an uncontested topic during the framing of the constitution. While Gandhiji was for it, Dr. Ambedkar opposed it. Dr. Ambedkar saw the village as a source of oppression. Multiple commissions have studied the pros and cons of this problem, notably Balwantrai Mehta Commission (1957), K. Santhanam (1963), Ashok Mehta (1978), V.K. Rao (1985), LM Singhvi (1986) and finally the 73rd Constitutional Amendment under Prime Minister Narasimha Rao in 1992. It envisaged Gram Panchayats, Panchayat Samitis and Zilla Parishads. More than 3 million people are elected to the local Panchayats in India today. This is probably the largest exercise in democracy in the world. However, being a State subject, the freedom enjoyed by the Panchayats, resources available to them and the ability to initiate projects that are locally responsive varies a great deal between States.

We must recognize that State governments that are unwilling to yield power to local authorities do distort the spirit of local governance. *Similarly, local governance without national standards cannot lead to uniformity in the provision of individual rights and social justice.*

Panchayati Raj in reality has not been an unmixed blessing. In some parts of the country, the worry that Dr. Ambedkar expressed has come true. Panchayati Raj can be manipulated to enforce a caste-based management of the village. This distortion often reflects the regional variations in the progress India has made over the last 50 years.

The Role of the Media

Surprisingly, the media seems to have accepted the pattern of corruption, the dysfunctional consequences of coalition politics, religious discord or judicial delays. No political party is held accountable for the extraordinary expenditure during

elections and the show of “money power”. Public accountability is seldom enforced. Yes, even in this permissive atmosphere individual excesses may make the news. For example, it is estimated that 50% mining operations in Orissa operate without permission. The weigh-bridges are unmanned or do not work. More than 15, 000 trucks ply the roads with ore. This scale of corruption seemed to have escaped media attention till recently. More importantly, who are accountable for collusion of this magnitude?

The only bright spot in this process is the role of a few brave civil society organizations that work tirelessly to expose the misuse of power. They do make a difference but they alone without the support of the populace as a whole and the media in particular cannot sustain the pressure to change the system.

Conclusion

India is at an interesting crossroad. It must choose. The path to progress needs significant innovations and a discarding of the old and acceptance of the new. Many of the innovation initiatives are at least partially underway. Many of the challenges that I have spoken about today are well known and well researched. The solutions are also clear. What India lacks is the will to face up to the challenges.

We cannot continue down the same path. If we look at the success stories of India’s recent history – in the IT and outsourcing sectors especially, the lesson is fairly clear. Individuals who are educated and given the right training have made a disproportionate impact on economic growth and have created opportunities where governments alone could not. They have also given all Indians a sense of pride in their identity and increased the respect with which this country is viewed internationally. This is not just a reality in urban India. The role of the farmers trained and empowered have

transformed their lives and the way they are able to interface with the rest of the world as we see in work done by ITC e Choupal, Amul, Jaipur Rugs and in many Self Help Groups around the country. It is all about empowering individuals, providing them capabilities and allowing them to exercise their choices. I expect this trend to grow dramatically with the proliferation of the cell phone and connectivity.

I do not want to focus on the success story in a particular industry or in a particular locale. I view this as reinforcement of the idea that when we focus on individual rights and meritocracy, we are better able to achieve collective goals. When we try to focus on groups, we are essentially accountable to no one. After fifty years of focus on group rights our gains have been too modest and too slow. Gandhiji succeeded because he understood how to combine individual dignity and collective action. Bottom up revolution in India must start with individuals, their capabilities, their empowerment, their dignity and their ability to live their lives and realize their dreams. I realize the magnitude of the challenges that this refocus of our efforts demands. But we have started this journey. The Universal ID, the focus on literacy and skill development, e-governance, and local management with national standards are all building blocks of a society that focuses on improving individuals and as a result contributes to the collective progress. We have to accept this reality or resign ourselves to slow and uneven progress – and ultimately, a society with deep divisions and injustice.

I think a first step is to stop thinking and speaking about the “masses”. I dare say that we may find ourselves better able to cope with whatever challenges we face when we can articulate a course of action for individuals to take. Whenever we have done that, Indians have risen to the challenge. They have always made the country proud. It wasn't long ago that the rich and poor united and sacrificed for the common good. Imagine

if we can motivate more of our citizens to act so bravely and selflessly toward a common purpose. Imagine, too, that we can reduce the burden of corruption by even half – through a combination of better policy and swift consequences. Many of India’s goals begin to seem more attainable.

The crisis in India is a crisis of leadership. There is no one who is willing to articulate a view of India and Indianness with clarity and force so that the country can come together and make the sacrifices needed to build a new India that the framers of the Constitution imagined. Indians are ready to be led again. India is the largest single experiment in democracy and social justice the world has ever seen. Leaders in India, in fact all Indians, have to ask themselves “what will be the judgment of history? What will be our legacy”? I also believe that people want to be heard more than anything else. They hunger for opportunity more than handouts. I draw inspiration from Mother Teresa’s words: When I look at the masses, I feel I cannot do anything. When I look at individuals, I know I have to do something. “India has more people waiting to be led than any other place on earth. It is time to act and act decisively.”

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NANI A. PALKHIVALA MEMORIAL LECTURES

Date	Subject	Speaker
16.1.2004	Quest for Justice	Fali S. Nariman
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