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Making Democracy Work for the Poor

by

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Making Democracy Work for the Poor

The greatest challenge before India today is combating mass poverty and making lives of ordinary people bearable. If dignity is denied to an Indian in 2004 AD, and people are forced to be hungry even as food grains are rotting in warehouses, then that is unacceptable. If in 21st century, poor Indians suffer in monsoon from torrents of rain for want of shelter over their heads, or shiver in cold, then that is a disgrace to our republic.

If rights of the poor are trampled upon without reparation, and justice is delayed and denied, and poverty is therefore perpetuated, that is an unbearable shame in a democracy. If a child born in this land of ours has no access to health care, and suffers needlessly from preventable illness, that is clearly a negation of our democratic ideals, and perversion of our humane Constitution. If the children are denied basic education of reasonable quality, and if their minds are stunted on account of the unfulfillment of their potential, and their latent talents nipped in the bud, then the political and governance system should be assailed without hesitation.

Sadly, all these and more are true about our country and its governance. Thanks to our misplaced priorities and irrational policies, the governments, over the years, have failed to do what they ought to, and have always taken upon themselves tasks, which are not theirs. The results are waste of public money, perpetuation of poverty, uncontrolled population, ubiquitous corruption, ecological degradation and failed policies. In spite of its many failings the Indian democracy continues to project optimistic forecasts. For instance, Goldman Sachs in its paper, *Dreaming With BRICs: The Path to 2050*, states:

> 'India has the potential to show the fastest growth over the next 30 to 50 years. Growth could be higher than 5% over the next 30 years and close to 5% as late as 2050 if development proceeds successfully……While growth in the G6, Brazil, Russia and China is expected to slow significantly over the next 50 years, India's growth rate remains above 5% throughout the period. India's GDP outstrips that of Japan by 2032…..India has the potential to raise its US dollar income per capita in 2050 to 35 times current levels.'

Most economists across the world generally agree that India can grow faster if only certain impediments to prosperity are removed. India's current growth at a reasonable 6-7% per annum, and its status as the world's fourth largest economy in purchasing power parity terms are testimonies to Indian entrepreneurial energies and ambition of the ordinary citizens. Yet, our growth potential, due to many political and social causes, remains unfulfilled. Why is this so? Do we have scarce resources?

I

Resources and Development

The GDP share of public expenditure in India is low compared to OECD countries. But it would be wrong to conclude that state's incapacity to deliver is a result of shortage of resources alone. Indian state was never short of resources to abstain from carrying out vital functions necessary for development. Excluding the local governments' expenditure and inter-governmental adjustments, the combined total expenditure of the union and state governments, according to the budget estimates, is a whopping Rs 2000 crore per day or in terms of purchasing power, it is equivalent to $2 billion a day!

Country	Public Expenditure as
United Kingdom	37.7
Germany	44.5
United states	32.7
India	26.0

What do we get in return and what do we have to show? Eighty million children with no access to school education, 700 million people without access to proper toilets, shortage of teachers and excess of peons and clerks, appalling public services and woefully inadequate infrastructure. Without having to increase public expenditure, without having to seek aid from international agencies, these 80 million children could all have access to basic school education. It just requires some reallocation of funds and commitment of the governing class. At 50 children per classroom, we need to build 1.6 million classrooms. Each classroom can be built at Rs 1 lakh or less. This will incur a one-time expenditure/investment of Rs 16,000 crore. This is equivalent to only 10 days' government expenditure! Running the school — teachers and basic teaching aids — would incur a recurring expense of Rs 8,000 crore; a mere five days' expenditure! A very paltry investment when you calculate the social and economic returns to the country. Similarly, all it takes to provide a safe, hygienic toilet for every household is about Rs 12,000 crores public expenditure (half the needy households can pay from their own resources, if technology and material are accessible, and a campaign is launched to promote proper hygiene and sanitation). This is equivalent to a one-time investment equal to six days' public expenditure. Studies have also shown that our public health system can be completely revamped, and health care improved

Country	PE on Education as % of GDP	PE on Health as % of GDP
United Kingdom	4.5	5.9
Germany	4.6	8.0
United states	4.8	5.8
OECD	5.2	8.1
India	3.2	0.9

and made accessible to the poor and needy, at an additional cost of about Rs. 10,000 crores per annum.

These examples demonstrate that while resources are scarce, even the available resources are not properly deployed. The Indian state has increasingly become a stumbling block to our economic growth prospects. The state guzzles vast resources and produces very little in return. We have, in all, about 28 million workers in the organized sector, or about 8% of the total workforce in the country. Of them, an astonishing 20 million, or nearly three-quarters, are in government! About 13 million are directly employed by the government at various levels, and about 7 million are in public sector undertakings. This number in the last decade has actually increased by nearly a million. The problem is not the size of government employment in absolute terms. Many nations have a larger proportion of population employed by government. Therefore, the solution does not lie in mindless downsizing. What we need is redeployment and greater productivity. Take a large state like Andhra Pradesh with 900,000 employees in government. About 180,000 or 20% are unproductive for the people, as they are engaged as peons and drivers! Another 30% (270,000) are support staff (clerks, etc.) whose only purpose is to allegedly help the decision-makers. There are about 40,000 officials with decision-making power at some level or other, and they could perform far more efficiently and economically with a well-trained support staff of a total of 60,000. But we have 450,000 of them employed as clerks, drivers and peons! We have about 310,000 teachers, and the state probably needs another 300,000 teachers of good quality to sustain a credible school education infrastructure. The health care system is inadequately staffed. We have just over 1000 judges in the state, and a total of about 12,000 in India. Germany, with a population of 80 million, has 30,000 judges! We have far fewer police personnel than needed in modern times. All this demonstrates that it is not merely the size of the government which matters, but the productivity of the government. Clearly, we have to enhance the productivity and efficiency in the government, especially in health and education sectors.

II

Leveraging Our Strengths – Education

For long we have limited educational opportunities to the privileged few. Roughly 10% of our children have access to quality school education. In effect, 90% of the gene pool is wasted, as the potential of these children remains unfulfilled, and therefore untapped. It is not merely a social issue, but has serious economic consequences.

In the medieval era, all our production was based on traditional agriculture, and a few related occupations to service agriculture. Human labour, and not application of mind, was the source of most

production. Literacy levels did not matter then. But in the age of machines, much of the arduous physical work is done mechanically. Productivity increase depends on a worker's capacity to acquire skills, and his state of fitness. Most of our unemployed workers have no real skills, and are unemployable. We cannot have productivity gains if most workers have the capacity to only dig the earth or fill the pits. Education is the key to economic prosperity and poverty alleviation.

Even Kenya (with 83 percent literacy) and Tanzania (95 percent) do much better than India in school education. What is more, every literate person in those countries can read, write and speak both Swahili and English fluently. Our literacy figures are dubious at best. Even now, our levels of literacy are only slightly above 60%. And most of these literates would be classified as illiterates if we judge them by minimal standards of reading, writing and arithmetic. Our functional literacy levels are probably closer to 30%. At least four years of good quality schooling is the critical requirement to make a youngster a productive member of modern economy. And that is what we failed to achieve.

Real education needs hard work, planning and commitment. When we don't deploy our energies and resources, we make laws. There is no dearth of laws to banish poverty, promote equality and guarantee justice. We have now added one more law – in fact a constitutional provision, through the 93rd amendment – making school education between 6 and 14 years of age a fundamental right. Predictably, once the amendment is enacted our politicians and bureaucrats indulge in self-congratulation and move on to other great goals.

But education cannot be improved by legislation alone. Most schools have only one or two teachers. Many teachers themselves are semi-literate. A classic vicious cycle has set in. Decades of poor schooling undermined higher education. Poor quality higher education is now leading to school education failure. There are millions of university graduates who want to be teachers. But most of them are hopelessly ill-equipped.

Evidence shows that in many of our cities the cost of government school education per child is of the order of Rs 10,000 – Rs 15,000 per annum. And yet, the outcomes are appalling. The condition in most private schools is no better. True, Indians treasure education. Millions of middle-class families are willing to pay around Rs 10,000 per annum to provide hopefully decent school education to a child. This expense of Rs 20,000 per year for two children's schooling in a country with annual per capita income of about Rs 25,000 at current prices is quite extraordinary. Thanks to this willingness to pay, education has become a money-spinning industry. Even the US, the Mecca of free market, does not treat education as a profitable enterprise the way we do in India. Thousands of 'convent' schools dot our urban and even rural landscape. Even poor families feel obliged to send their kids to these schools of

indifferent quality, spending Rs 100 - 200 per kid per month in the hope that somehow such 'education' will secure the children's future.

We need to focus on five areas – resources, physical infrastructure, teachers, accountability and standards. Adequate resources are critical, and ad hoc and token measures to provide makeshift schools with make-believe teachers will not do. We must summon the will to deploy the required additional resources – about a week's public expenditure every year, or 0.5% of GDP. With resources, buildings and furnishings are easy to provide. But teachers are another matter. A massive programme of training teachers should be designed and implemented. The present teacher training institutes have largely failed. Any objective study of private schools funded by tuition fee will prove how poor the quality of teaching is. When economic incentive also fails to produce quality, then there is a deeper crisis which cannot be addressed by market forces alone. In the medium term, we need to comprehensively restructure our higher educational edifice. But in the short term, crash courses for teachers are vital.

Availability of teachers does not guarantee education in government schools. We need to empower parents and improve inspections and quality controls. At present inspections have lost relevance, and have become a source of corruption. We have to design and operate instruments of accountability. And there should be clear standards based on minimum levels of learning, and effective evaluation to measure the output.

Parents are not fools. They care for their children. They do not bother to send their children to school because they know that the present schooling doesn't make their children productive. Many poor families pay hefty tuition and send their children to private schools, but to no avail. Compulsion has a limited role. But universal school education will become a reality only when the school serves its purpose. And only when the school produces productive citizens can the economy begin to show real vitality and enduring growth.

All this requires political will and administrative skill. Where and when in India did the quality of school education become the election issue at any level? George Bush was elected largely on the strength of his efforts to improve standards in Texas schools. If we realize that school education is vital enough to at least affect the outcome of local elections, then universal literacy and productive workforce will become a reality.

The last decade did witness added emphasis to school education in our government programmes. What is missing is a holistic effort to make schools productive and improve outcomes. However, we must recognize that school education and higher education are interdependent, and the weaknesses of

each lead to failure of the other. Our public policy makers and educationists have largely failed to establish this link

India's unique selling proposition propelling growth and engendering optimism, is the fact that we are home to one of the world's largest technical manpower pools. We have over 5 million scientists, engineers and technicians in India now. About 300,000 of them (6%) are engaged in research and development. We can boast of 450,000 allopathic physicians, 200,000 agricultural graduates and 40,000 veterinarians. The stock of other postgraduate degree holders is about 4.5 million in liberal arts, and a million each in sciences and commerce. In addition, we have about 9.5 million graduates in liberal arts, 4.5 million in sciences and 5 million in commerce. Our engineers alone exceed a million now, with 1100 colleges producing 350,000 technologists every year, 60% of whom graduate from the four southern states alone!

All these are impressive numbers by any standards. India certainly has a vast higher education infrastructure, which can be the envy of any developing country. But these numbers hide a grave crisis in our higher education. Out finest scholars – about 5% – are a match for the brightest and best in the world. But many of them are migrating to the U.S and West. Recent reports say that the 75,000 Indian students constitute the largest foreign contingent in American universities! These are products of the few good institutions, backed by exceptional talent, family support and conducive environment. But most of our colleges and universities produce graduates of indifferent quality. A culture of rote learning, lack of application of knowledge, and poor examination system have undermined our higher education. Most graduates lack basic communication skills, nor do they exhibit problem-solving capacity. Educated unemployment is very much on the rise, largely because most graduates cannot promote wealth creation, and are therefore unemployable. And yet, our society faces acute shortage of problem-solvers, and capable workers in various fields like health care, education, justice delivery, and law and order. This is a classic case of a mismatch between our needs and human resources. As Coleridge lamented in his immortal poem, "Water, water everywhere; but not a drop to drink!"

Clearly, the main function of higher education system is to add real value to human resources, and produce wealth creators and leaders in all fields – business, professions, politics, administration, and creative pursuits. Even the crisis in school education is compounded by the failure of higher education. Most problems in our schools – curriculum, text books, teaching methods, examination system – can be overcome by innovative efforts and sensible public policy. But there is phenomenal shortage of good teachers. And only university graduates can be teachers! Millions of graduates are hunting for jobs, and yet, most of them cannot be trusted with our children's education. A classic vicious cycle has set in: poor school education has weakened university standards; and collapse of higher education denies good teachers to schools! All of us face this dilemma in our schools.

Happily, there are several positive factors, which can be the foundations for excellence in higher education. Youngsters today are ambitious, hardworking and highly motivated. There is fierce competition for professional and university education. Graduates are no longer seeking cushy jobs in government; they are ready and willing to compete in the market. Parents gladly pay huge sums for their children's education. Our society and civilization treasure learning and scholarship. We can build on these strengths. While private, non-profit investment in higher education is necessary, it is no panacea to our problems. Market forces alone cannot deliver, as we cannot afford to ruin lives of millions of youngsters by trial-and-error. Money is not always a solution. We need direction and will to adopt the best practices here and elsewhere. There are several non-monetary inputs which can dramatically improve our higher education. Let me give three examples of what can be done.

First, the quality of teachers is appallingly low. There is enormous inbreeding, with an alumnus being recruited in the same institution where he pursued all his education, promoted, and eventually made the Vice-Chancellor, without ever being exposed to other centres of learning. There is no cross-fertilization of ideas whatsoever, and we call them universities! The jockeying for political patronage, infighting, caste prejudice and resistance to innovation are unbelievable. Most western universities have a simple rule: a university graduate is not appointed as a teacher in the same institution. With constant new blood, new ideas, rigorous intellectual discourse and innovation are fostered. And it does not cost a penny.

Second, we have a rigid and stultifying academic atmosphere, with artificial divisions of various disciplines, and predetermined combinations of courses on offer. As a result, more and more people are ignoring humanities education and lack broad perception, depth and communication skills. Charles Eliot, the legendary educationist and President of Harvard, found an effective solution over 130 years ago. By introducing the Elective System, he transformed a college with one uniform curriculum into a great university without any prescribed course of study at all. Freedom of choice, opportunity to win academic distinction and discipline were all fostered at one stroke. Students could opt for courses of their choice, depending on their aptitude and the teachers' scholarship and talent. This also meant that teachers, whose courses were not valued, became irrelevant, and in effect students evaluated teachers! Artificial and rigid barriers of knowledge disappeared. Our own IITs have recently introduced a system of each student having to do a prescribed number of courses of her choice in humanities. Even a century after all the great universities adopted the Elective System, our universities are blissfully ignorant of any innovation!

Third, our examinations are disgraceful, often testing rote memory. A careful memorizing of answers to questions posed in the three previous years (excluding the immediate past year) will guarantee high

grades! Analytical skills, application of knowledge, problem-solving capacity and innovation are rarely tested. There are many models of great examinations evaluating the students skillfully, and creating demand for better education by redefining success. All these and many other innovations cost no money. They only need painstaking efforts, sensible innovation, and adoption of successful best practices.

III
Health Care and Nation's Well-Being

There is ample evidence of inequitable access and delivery of health services in India. The poor suffer greater burden of disease than the well-off. Worse still, the poor end up paying more and suffering more for the same affliction in most cases, because of poor access and indifferent delivery. The lost time and productivity have often a devastating impact on the lives of the poor, leading to impoverishment and indebtedness.

NHP – 2002[i] admits that while the public health investment in the country, over the years, has been comparatively low, as a percentage of GDP it has declined further from 1.3% in 1990 to 0.9% in 1999. Out of this, about 17 % of the aggregate expenditure is public health spending, most of the balance being out-of-pocket expenditure. This declining public spending on health (less than 1 % of GDP) places India in the bottom 20 % of countries. As the World Bank Report "*Raising the sights: Better Health Systems for India's Poor*"[ii] states:

> "Most low-income countries spend more than India, where current levels are far below what is needed to provide basic health care to the population. The bulk of public spending on primary health care has been spread too thinly to be fully effective, while the referral linkages to secondary care have also suffered. As in other countries, preventive health services take a back seat to curative care."

According to NHP-2002, the central budgetary allocation for health over the period 1990 – 99 has been stagnant at 1.3% of the total budget. At the same time, the fiscal pressures led to a reduction of states' public health expenditure from 7 % to 5.5 %. The current annual per capita public health expenditure in India is around Rs. 200. Of this, about 15 % is contributed by the union government.

The high reliance on private, out-of-pocket payments in health in India impose a disproportionate burden on the poor. The poorest 20 % Indians, for example, have more than double the mortality rates, malnutrition, and fertility of the richest quintile.[iii] The only countries with higher proportions of private payment on health than India are countries that have undergone civil conflict and collapse of the public

sector, like Georgia, Cambodia, Myanmar and Afghanistan. As a result, "India's current health financing system places people at risk of financial ruin should they become sick, and is inefficient and inequitable.[iv]"

While the states share 75–90% of public health expenditure, most of these funds are tied up in salaries, leaving few resources for essential drugs, supplies, operations and maintenance [v]. 97 % of all public expenditure is for consumption purposes, and only 3% for capital expenditure. 60 % goes in wages and salaries and only 35% for material and supplies, drugs, and transport. Out of the limited public health budget, curative services including hospitals and dispensaries, insurance schemes, and medical education and training account for 60%, leaving only 26% for public health and family welfare, and 14 % for administration and miscellaneous services.[vi]

Curative public services largely favour the rich, with Rs 3 spent on the richest quintile for every Re 1 spent on the poorest 20 %. As nearly all the private spending is out-of-pocket, the poor are highly vulnerable to health risks. The poor generally avoid hospitalization because of their inability to pay and lack of risk-pooling. Hospitalization frequently means financial disaster. As the World Bank document states[vii]:

- Only 10 % of Indians have some form of insurance, and most of this is inadequate
- Hospitalized Indians spent more than half (58%) of their total annual expenditure on health care
- More than 40 % of those hospitalized borrow money or sell assets to cover expenses
- At least one quarter of hospitalized Indians fall below poverty line because of hospital expenses

Evidence from NSS surveys shows that the private sector accounts for most of the curative services. However, the poor still depend on the public sector for most health services, except out-patient care. 81% of out-patient care is provided by private sector. In the inpatient care too, the share of public sector has fallen from 60 % in 1986–87 to around 45 % in 1995-96. Yet another well-known inequity in health sector is that rural areas with 73 % of the population account for only 33 % of government health resources. Urban population has thus received more than 5 times what the rural population received in per capita terms[viii]. Consequently, the attainment of health indices has been very uneven across the rural-urban divide.

Equally glaring, the health expenditure and quality of services is highly variable across the states. While costs of family planning, maternal and child health care, and immunization are almost entirely borne by the union government, health expenditure on hospitals, primary health care facilities and insurance are mostly financed from the states' budgets. As the per capita state Domestic Product varies significantly (Maharashtra enjoys 3.4 times that of Bihar), the annual per capita expenditure on public health too

varies widely. The central funds too are transferred not on the basis of the needs of individual states, but often uniformly on population basis, and sometimes on 50-50 cost sharing basis (eg., malaria eradication)[ix]. With the expenditure compression programmes in place, there is greater impact on public health expenditure and an even more pronounced impact in poorer states. These factors, coupled with the historical development patterns over the decades and their cumulative impact make it necessary to recognize the need for different approaches in different states. World Bank classified the states into four categories based on the stage of health transition and institutional capacity. All the evidence thus shows that higher and better-directed public expenditure is a necessary prerequisite for significant health improvements. A comparison with OECD countries illustrates this point effectively. In absolute terms, Indian public health expenditure of about Rs 200 per capita is a pittance compared to the high expenditures in rich countries. Even in relative terms, public health expenditure of 0.9 % of GDP is well below the OECD norm of 5 to 7 % of GDP. However, the OECD countries' total public expenditure, as a share of GDP is much higher than in poor countries. On an average, OECD countries' governments spend about 40-45 % of GDP, as opposed to India's 29 % (18 % revenues, and 11 % fiscal deficit). Therefore a more realistic comparison would be the share of public health expenditure in the total government expenditure. In OECD countries, public health expenditure is of the order of 15 to 20 % of the total government expenditure. In India, the share of public health expenditure is 1.3 % of the central budget and 5.5 % of state's budgets. The weighted average is probably close to 3 % of the total government expenditure, or less than a fifth of the OECD countries in relative terms. This gives us a measure of inequity of health services availability in India, and the distance we need to travel if a healthy future is to be ensured to our people. But there are simple practical solutions available. Given these circumstances five critical steps have to be taken

1. Meeting the health manpower requirements at the grassroots level:

The proposals are mainly aimed at raising a voluntary corps of a million trained female community health workers. These workers will be drawn from, and chosen by, and will be accountable to, the community. They will be volunteers drawing an honorarium from the local government (state and union Governments will reimburse the amount), and possibly collecting nominal service charges as decided by it. They will be acting as the interface between the formal primary health care system and the community. In addition, there are key gaps in primary health manpower, particularly the male multipurpose health workers. All these gaps need to be filled.

2. Creating adequate infrastructure to meet the health needs at the local level:

PHCs need to be strengthened to deliver effective reproductive and childcare services, and distribute generic drugs for simple curative care. In addition, building a quality Community Health Center (30-50

bedded hospital) for every 100,000 population is a vital requirement to strengthen first referral hospital care, and to enhance the credibility of primary health system. About 7000 such new institutions need to be built and equipped all over the country in the next five years.

3. Regulatory and policy changes

NAC proposes that government should appoint Task Forces with officials, experts and policy analysts for submitting time-bound (within 60 days), detailed reports for follow up action. The areas to be covered, among others, are as follows:

- Convergence and integration of services
- Medical education and Medical Grants Commission
- Training of Voluntary Health Workers.
- Regulation of medical care and medical ethics
- Regulation of medical profession, and revamping of IMC Act.
- Accreditation and integration of rural medical practitioners (RMPs) into health system.
- Health financing mechanisms.

These recommendations of the Task Forces should be disseminated for public debate, and finalized within six months from now.

4. National Campaign for public hygiene and sanitation:

A massive national campaign needs to be launched to promote hygiene and eliminate the scourge of public defecation. The problem is particularly acute in urban areas. Special emphasis needs to be given to urban sanitation, and toilets in all schools. As a part of the campaign and public education, in kind support needs to be given to the poorer segments of population to build household toilets. Over a period of five years, about 100 million household toilets should be built by the people, with partial government support where necessary. Massive public education, by the application of television and mass communication to alter the attitudes, behaviour and cultural practices, should be integral to the programme.

5. Hospital care financing, risk-pooling and health security:

This is the most challenging area requiring innovation and institution-building. NAC suggests one possible mechanism incorporating the following features:

- Financing by the union, state and citizens (those above poverty), pooling Rs. 90-100 per capita. Citizens' share to be collected by the local governments as cess.
- Pooling of the money at the District level with a new authority – District Health Board (DHB) under the overall umbrella of elected local governments.
- DHB will control all preventive care, supervise and fund all hospital care, and monitor all health-related programmes including nutrition, water supply, sanitation and family welfare.
- The public hospital care costs will be reimbursed by DHB for services rendered on the basis of standard costs and norms of services.
- Choice to patients, competition among service providers, and quality of service will be integral to health security programme. Where necessary, DHB will involve private providers on the same basis.
- A phased programme will be evolved for existing public hospitals to give time for transition. A part of the fund will be separately administered for tertiary care hospitals at the state level.

We need to make health care a major issue in our public discourse. Interventions in health care have the advantage of yielding most benefits to the long-suffering poor at least cost. These recommendations together build upon the existing institutions, and yet are innovative, with high probability of success at low cost. They together constitute the largest health security measures in democratic world.

The above five recommendations are in line with the commitments made under the NCMP in health sector. As stated earlier, they are in addition to the on going programmes and the Tenth Plan commitments. The total costs (excluding capital costs for sanitation and referral hospitals) will be of the order of Rs. 7000 crore per annum – about 0.23% of GDP

The total estimated financial outlay of these proposals is as follows:

Community Health Workers (Recurrent cost)	Rs. 1550 crores/year
Strengthening Primary Health care (Recurrent cost)	Rs. 2828 crores/year
National Sanitation Mission (Capital cost)	Rs. 2500 crores/year
First Referral Hospitals (Capital cost)	Rs. 1400 crores/year
Risk-pooling and Hospital care financing (Recurring cost)	Rs. 2600 crores/year
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Total	Rs.10878 crores/year

The above proposals are modeled by adopting the best practices of British health care system. We need to pursue the British pattern, and gradually move towards some form of viable National Health Service. We have many advantages, which allow us to manage this transformation over the next decade. The next five years give us a great opportunity to build the foundations of such a system. India

today is, in some ways, better placed than the Post-War Britain of 1940s. If we cannot seriously pursue the objective of viable national health service even six decades after its introduction in Britain, then all economic growth loses meaning for the bulk of our poor and disadvantaged population. Fortunately, we can build such a foundation over the next five years at relatively low cost of about Rs 8000 crores per annum (excluding sanitation, but including other capital costs which will taper off in five years). And this cost will be borne by both the union and states put together. These costs are incredibly low for the transformation of our public health system.

IV
Justice for Poor

An independent and impartial judiciary, and a speedy and efficient justice system are the very essence of civilization. However, our judiciary, by its very nature, has become ponderous, excruciatingly slow and inefficient. Imposition of an alien system, with archaic and dilatory procedures, proved to be extremely damaging to our governance and society. As Nani Palkhiwala observed once, “the progress of a civil suit in our courts of law is the closest thing to eternity we can experience!” Our laws and their interpretation and adjudication led to enormous misery for the litigants and forced people to look for extra-legal alternatives. Any one, who is even remotely exposed to the problem of land grabbing in our cities, or a house owner who finds it virtually impossible to evict a tenant after due notice even for self-occupation, can easily understand how the justice system failed.

In the process, a whole new industry of administering rough and ready justice by using strong-arm tactics to achieve the desired goals has been set up by local hoodlums in almost all of our cities and towns, and increasingly in recent years in rural areas. The clout and money these hoodlums acquire make sure that they are the ones who later enter political parties, and eventually acquire state power. There are countless examples in almost every state in India of slumlords, faction leaders, and hired hoodlums acquiring political legitimacy. Most of them started their careers attempting to fill the vacuum created by judicial failure through extra-legal, and often brutal methods. In addition, the courts have tended to condone delays and encourage litigation and a spate of appeals even on relatively trivial matters. Two simple cases of torts would illustrate the malaise affecting our justice system, and its inaccessibility to ordinary people, particularly the poor.

The Case of the Dog Bite

A poor, migrant watchman’s family lives in a hut in my neighbourhood. One morning, when walking along the road, a pet dog from a posh home rushed out and attacked him. It was several long minutes before the terrified watchman could free himself – but not before his right arm was severely bitten from wrist to shoulder. There were gaping wounds and severe bleeding, and almost half the skin on the arm

was hanging loose. The petrified man returned home with difficulty – drenched in blood and perspiration. After recovering from the shock, together with some relatives, he went back to the owner of the pet dog to seek some help. After an hour's haggling, he was given a hundred rupees! The owner showed no concern for his plight and certainly made no effort to get him medical attention. The watchman then came to me. My wife and I did what we could to provide help and medical attention. He couldn't work for about three weeks. He had to get dressing, full anti-rabies course, and antibiotics, and wait for the wounds to heal. There was considerable pain, fever and suffering. The family, already poor, underwent severe privation, monetary loss, emotional trauma and uncertainty.

In any civilized society the above incident would be a fit case for a civil suit under torts, and a fair compensation would be assessed at Rs.10,000 or more. The owner, whose carelessness resulted in this casualty, has the vicarious responsibility, and should pay damages. In the absence of a mechanism that can legally take care of such simple torts or disputes in a speedy and fair manner, most such poor people have no realistic legal recourse to get a just compensation.

The Case of the Police Van Accident

A watchman working for a club in Hyderabad was hit by a van belonging to the state special police battalion. He sustained severe injuries to the arm, involving fractures. First aid was administered to him, and the wounds were sutured, without any treatment for the broken bones. The police took no steps to ensure proper medical attention. When he was discharged from hospital several days later, his arm was hanging loose. The police did not offer any compensation. Nor did the matter come up for hearing before any court. The illiterate watchman lost his job because of his injuries, and was without work for over six months. Meanwhile, the police frequently approached him to get his signature on a blank paper by threats and coercion, probably to absolve the department of any liability. Months later, he got medical attention and proper orthopaedic surgery for his fractures through the intervention of some good samaritans. The police failed to pay for that treatment. While the man's body is repaired, he was shattered by the whole experience. He suffered enormous pain, agony and monetary loss. But no compensation was ever paid to him. And being poor and illiterate he did not know whom to approach for justice. In any fair system of justice, a compensation of Rs. 50,000 to 1 lakh would be the minimum required to meet the ends of justice in this case. And yet, there is no justice in sight for this poor labourer.

A Local Courts Model for India

Given this experience, there is need for significant increase in the number of trial courts at the lowest level, with the adoption of simple, informal procedures for adjudication. The honorary second-class magistrates system, which operated successfully in many states in the past, and still continues in some states, is a good example of such a system. Introduction of such a model should ensure speedy and

fair justice, simple and uncomplicated procedures, use of local language in courts, low cost of functioning, low cost to people and hearings as close to the cause of action as possible to encourage truthful witnesses to come forward locally. Such a system must be completely independent of the executive or legislature, and must enjoy the confidence of the people. Therefore, it must be an integral part of the independent judiciary, and should be appointed by, and accountable to the existing judiciary. There must be a provision for appeal to ensure corrective steps in case of miscarriage of justice. The jurisdiction of such courts must be exclusive, so that all civil and criminal cases below a certain level will automatically be heard by these courts. Finally, once a decision is given by such a local court, its enforcement must be simple, easy and fast.

One such model of local courts is briefly outlined here. There could be one such court for every 25,000 population in rural areas, and every 50,000 population in urban areas. A law graduate, or a retired judge or government officer, or a reputed person can be appointed by the District and Sessions Judge in consultation with his two senior most colleagues. These will be honorary offices carrying a monthly honorarium, and providing fixed allowance for travel and secretarial services. All costs put together will not exceed Rs 15,000 per month. There shall be no permanent staff. The existing infrastructure of the local governments or state government will be utilized for holding court. The tenure of the magistrate will be three years, with a provision for reappointment. The age must be at least 45 years. The local court will hold hearings at the place where cause of action has arisen or offence has been committed as far as practicable. The court can inspect any locality to collect evidence locally. Parties can represent themselves, or be represented by any lawyer or authorized agent. All proceedings will be in the local language only. Summary procedures will be followed in the trial of cases. The local courts will have exclusive jurisdiction of say Rs 100,000 (One lakh) in civil cases, and under one-year's imprisonment in criminal cases. Cases shall be disposed of within 90 days of filing. There will be an appeal to the Assistant Sessions Judge in criminal cases, and Senior Civil Judge in civil cases. Appeal shall be disposed of within 6 months. There is no second appeal. The first class magistrate will periodically inspect these courts and send reports to the District and Sessions Judge. District Judge will have the power to remove a local magistrate after due enquiry. District Judge can also transfer cases. The Junior Civil Judge will have the power to enforce the verdicts of lower courts. High Court will have the power to frame rules for conduct of the local courts' business.

Such a model also has several great advantages, apart from speedy, accessible justice to ordinary citizens. First, the number of judges can be significantly enhanced in a short span of time. All it needs is a state-level legislation. About 30,000 local courts can be established through this simple, practical, flexible method allover India, thus almost quadrupling the number of magistrates in the country. Second, this can be accomplished at a very low cost of less than Rs.600 crore per year for the whole country. In a major state, this expenditure will be of the order of Rs 50 crore per year. Costs can be

controlled because there will no permanent establishment, nor is there need for vast physical infrastructure involving huge capital investment. Third, most simple cases affecting ordinary citizens can be handled by these courts in a short span, dramatically reducing pendency by almost 9 million cases an year. This will enhance public confidence in the justice system, and many more cases which are now settled by private squads for a price using coercion and violence will come before courts. Justice will be a reality for the poor citizens. Finally, it will be fully integrated with the existing judiciary, and there will be no dislocation or dilution of judicial independence or integrity. Lawyers can represent clients, and the interests of the general public, legal profession, litigants and lawyers are fully protected.

A free society cannot exist without accessible systems of justice. Indian judiciary and legal profession have set high standards of excellence. But the bulk of the people are beyond the pale of our justice system. We need to restore public confidence in our legal system, and ensure peace, order and harmony in society. Many reforms are required to provide speedy, accessible and efficient justice. One simple, low-cost, effective, painless solution is the institution of local courts presided by honorary magistrates following summary procedures. It is not sufficient to address the monumental crisis facing our judiciary, but is a necessary first step in that direction.

This paper has demonstrated that there are simple and practical solutions to many problems that are afflicting our country. So far, various studies and examples have been cited to demonstrate that the tension between equity and efficiency in the allocation of resources is artificial. However, we must remember that every society has its strengths and weaknesses. We have to address a few important questions pertaining to state-societal relationship.

V

Societal Flaws Undermining Democracy

One question remains to be answered. If the state is but one, though vital, institution in society, is it not unrealistic to expect the state to resolve the many social dilemmas? Doesn't such an unbalanced view of state-society relations end up placing a disproportionate emphasis on state-driven changes of society? While the governance process should fulfil the minimum preconditions for civic participation, many of the obstacles are social, and not necessarily political. During the period from 1830s to 1940s, social reform movements were engineered by several liberal intellectuals and crusaders. In fact many of our great national leaders effortlessly integrated the national struggle for independence with social reform effort into a seamless web. Narayana Guru, Jyotiba Phule, Vidyasagar, Ramamohan Roy, Dayanand Saraswathi, Veeresalingam Pantulu, Mahatma Gandhi, Babasaheb Ambedkar and several other stalwarts regarded social reform as the end and political power as merely one of the means to

achieve it. Sadly, with the advent of freedom there has been no serious or concerted effort to change social attitudes and to promote a democratic culture in society.

There is much that is good in our culture and tradition. The strength of family as an enduring social institution, the communitarian spirit, which still pervades most of our rural society, the sense of right and wrong that informs most human conduct, the natural assimilation and eclecticism and syncretism dominant in our ethos, and the remarkable capacity for adjustment, coexistence and contentment are all our great strengths as a society. However, there are several serious societal flaws which undermine our democracy. In the words of an Indophile Dr. Carolyn Elliot, they can be summed up as absence of a sense of equality, trust and common fate. Firstly, most Indians instinctively accept and perpetuate distinctions on account of birth, caste, wealth, power and occupation. That all human beings are entitled to equal dignity and all productive work to fulfil society's needs has the same value are not part of our belief system and world- view. This can only be corrected by movements within civil society, and political institutions and laws can at best be useful adjuncts. In Myron Weiner's words, 'psychology of caste' still dominates the thinking of most Indians.

Secondly, the educated and the better-off sections of society instinctively reject the notion that all citizens have the capacity for self-governance. Even elected politicians and paid public servants harbour great mistrust about the ordinary citizens' capacity to decide what is best for them. There is an unspoken assumption that people need to be told what to do, and cannot be trusted with power. The resistance to genuine local self-governance and people's empowerment is the most visible manifestation of this mistrust. The edifice of a sound democracy can be built only on the strong foundation of trust and faith in the unalienable right to self-governance and the intrinsic capacity of the common people to achieve uncommon goals.

Finally, the sense of common fate, which is so vital to bind people together into an orderly society with protection of rights to all, is missing in us. As President Narayanan put it aptly during his Republic Day address to the nation:

> "We ignore the social dimension of our actions and practices. The late Dr. Adiseshaiah, one of our prominent economists and academicians, wrote about his mother, that she was a high born lady who kept her house spotlessly clean. Every morning she used to sweep and clean the house herself and then dump the rubbish in the neighbour's garden. Self-regarding purity and righteousness ignoring others has been the bane of our culture. It has created a gulf in our society between people even with regard to basic needs and fundamental rights".

A civilized society can be sustained only if citizens recognize that rights and duties coexist, and in fact one's rights are translated as the duties of others, and vice versa. Individual behaviour in our society is often detrimental to collective happiness. The impunity with which people jump queues, the frightening violation of traffic rules, and the habitual spitting on the streets and littering are but a few random examples of such socially debilitating behaviour. This ugly social trait, combined with governmental apathy, ensured that unfulfilled potential and avoidable suffering persist in great measure in our county.

The social attitudes of the governing classes and their unceasing efforts to perpetuate the rigid social hierarchies are abundantly in evidence in our daily life. One of the chief concerns of the average urban middle-class housewife is her child's admission to a prestigious private English medium school, or her inability to get cheap hired domestic help, preferably a child worker. R K Laxman illustrated this mindset superbly in his cartoon which shows two boys, one healthy and dressed in school uniform standing erect, and the other weak and ill-clad groaning under the weight of a load of books. The mother of the school-going child tells her friend, "It's really cruel burdening the kids like this! I had to hire that boy to help my son!" The democratic process, instead of empowering the poor and improving their skills through quality school education and giving control to stakeholders, has in fact perpetuated the social hierarchies by retaining control with the elites and divorcing the stakeholders from power.

A related social malaise is the excessive obsession with immediate family and progeny with little care or concern for public goods. Great democracies are built as much with individual efforts to build social capital as through enduring and wise institutions of state. The sanitation movement in Britain in 19th century, the great universities, public libraries, museums and parks built through the support of farsighted individuals and foundations in the United states are examples of civil society initiatives promoting public good. The great North American universities of Harvard, Yale, Carnegie Mellon, John Hopkins, Cornell, Vanderbilt, Stanford, McGill, and Duke, Illinois Institute of Technology and Vassar College were all built through private charities. Great institutions like the Smithsonian Museum and the Brooklyn's Institute were funded entirely privately. Several private foundations promote public causes assiduously, those commemorating Ford, Kellogg, Rockefeller, Mellon, Carnegie and Kresge being among the better known. Many hospitals, public parks and other public goods have been entirely privately funded. Even the recent effort of Bill Gates to help eradicate preventable disease from the globe is a good illustration of the ease with which private wealth is utilized for public gain. The privileged classes in India have not yet recognized that they owe much of their wealth and success to society.

All these social attitudes can only be altered and improved through civil society initiatives. The state can at best play a supportive role by creating a system of high reward and low risk for desirable behaviour and high risk and no reward for unacceptable behaviour. Sadly, over the past five decades the civil society's initiative in this regard has been stifled by the all-pervasive state. The society, as a whole,

should come to terms with this serious deficiency and counter it through propagation of socially desirable behaviour and promotion of people's initiatives for creating social goods.

It must be understood however that the society and state are in a state of constant flux. Both interact with each other and alter each other in a fundamental way. That civil society shapes the nature of the state as profoundly as constitutions and laws is undeniable and widely accepted. But what is not as clearly recognized is that the nature of the state has a profound and often lasting impact on society. The loosening of the caste hierarchies and the widespread, if inadequate, notion of equality in society in India is largely a product of the political process and the state structure which guarantees universal adult franchise, equality before law and fundamental rights irrespective of birth and status. The liberal democratic state created by the American Founding Fathers did not at first recognize women and blacks as equal citizens. However, the glorious ideals of the American state inevitably came in conflict with unjust institutions and ugly practices over a period of time. This led to the Civil War in 1860s resulting in massive bloodshed. About 10% of all American population died in the effort to liberate the blacks and give them a vote. Similarly, the democratic ideals and institutions could not for long accept denial of voting rights to women, and in 1920s the struggle of woman's suffragettes bore fruit. The 1960s civil rights movement led by Martin Luther King was largely a result of the ideals of the state and legal structure coming into conflict with the social rigidities in the southern states. Ultimately the society had to yield and things were never the same again.

In other words, a modern liberal democratic state based on the doctrines of human rights, universal franchise, people's sovereignty, and rule of law is bound to come into conflict with traditional social rigidities, undemocratic practices, irrational prejudices and shameful hierarchies. But for such conflict to arise and lead to social transformation, the fundamental requirements of a democratic state should be fulfilled. For instance, if the state does not create conditions for free and fair exercise of universal franchise through proper voter registration and voter identity cards, then a flawed democratic process actually promotes polling irregularities and perpetuates feudal power. Similarly, if there is no transparency in governance, and if there are no instruments of accountability at the citizens' disposal, flawed democracy becomes ineffective in checking the abuse of authority, and perpetuates the hold of traditional power brokers on state and society. If the process of power is highly centralized, then people will never understand the link between their vote and public good, and democracy will be hijacked by money bags and muscle men, again perpetuating the dominance of the rich and the powerful.

While the republic of India, founded in 1950, has been informed by modern liberal, humane values, the institutions and practices have often been illiberal and inherently undemocratic. In the absence of reform of these institutions and practices, and correction of the many aberrations which have crept in, democracy is reduced to winning a plurality of vote in a flawed election process and exercising

unaccountable and arbitrary authority over the lives of citizens. A state which cannot enforce rule of law leads to an unjust and anarchic society. In effect, the flawed democratic process tended to accentuate social rigidities, instead of modernizing society. As a result, the modern liberal democratic state, which ought to be a significant part of the solution to society's maladies, has itself become part of the problem. That is the reason why the influence of state on society has been emphasized in this paper. There has to be a concerted effort to make the state an effective and just instrument for social transformation, even as society has to be made more conducive and fertile for the flowering of a genuine democracy. The modern state has a great role in shaping society just as the civil society has a seminal role in democratizing the state. In order to achieve both these goals we need active citizenship and social movements for reform. In a democracy citizens cannot be de-linked from society, and vice versa. Collective and informed citizen assertion is the key to transformation of both state and society.

VI
Conclusion

No one seriously disputes the need for citizen assertion, but skeptics may wonder whether such a national effort for governance reforms is possible. However, there is a deep distrust and resentment at the failure and paralysis of governance in the country affecting our lives. Millions of Indians, from Kashmir to Kanyakumari, and from Guwahati to Ganganagar, are yearning for fundamental reforms heralding better governance. Sadly, this concern is dissipated, as no concerted attempt is made to capture and channelize it into a creative national endeavor. Recent history in Eastern Europe has shown us that when there is widespread and deep dissatisfaction with a governing process, the cumulative impact of it will eventually trigger cataclysmic changes. If an infrastructure of institutions, people's initiatives and ideas is in place to seize the moment, then a relatively peaceful and painless transformation for better governance is possible, as evidenced in Germany. If, however, no concerted effort is made in time to constructively channelize people's anger and yearning for reform, then the results could be devastating, with anarchy and misery to the bulk of the people, as the plight of the erstwhile Soviet union amply testifies. In many ways, Indian people are ready for the rejuvenation of our Republic and transformation of our governance structure to make our democracy work for the underprivileged and dispossessed millions of our country.

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