

A black and white portrait of Rajeev Chandrasekhar, a man with a beard and glasses, looking directly at the camera. The background is a dark gradient with a red vertical stripe on the left side.

MY WORK AS A PARLIAMENTARIAN

RAJEEV CHANDRASEKHAR

ARTICLES

2006 - 2017

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Transform India

1

Costs Of Bad Governance Independent Regulators

Businessweek

5th March 2008

Our democracy and constitution has decided on a system of governance which consists of three pillars – the Legislature (The elected representatives), the Executive (Government) and the Judiciary. These three pillars are supposed to provide a system of checks and balances in our democracy – which each one of these pillars supposed to provide oversight to the other. In theory – the system is to work quite simply – For a certain issue the executive proposes legislation and law, Parliament/Legislature oversees/modifies the law and enacts it, the executive enforces it and the judiciary adjudicates disputes arising out such enforcement.

We are all aware of many instances of bad governance – by Political and Bureaucratic executive. But more worrying aspect of poor governance is coming from a quarter that was least likely or expected to have – This is that of Independent Regulator.

The creation of Independent regulators was a natural consequence the process of liberalization and over the last decade or so the role of the regulator has become one that's important. The regulators that are well known are the more obvious ones – The RBI, SEBI etc, the more recent sector specific regulators are those like IRDA – The insurance regulator, TRAI – The Telecom regulator, TAMP – The Port Regulator, Company Law Regulator etc.

The objective of the institution of the regulator becomes clear if you understand the genesis of the concept itself. The regulator or independent regulator is an institution whose idea comes from the need to have a credible, empowered institution that is insulated from the bureaucracy and politicians and therefore is capable of taking independent and correct/un-compromised decisions in the interest of the country/consumers/investors etc and while the idea of the independent regulator and the need for it remain compelling – the country's experience has been very mixed and in many cases indefensible.

Let us take one example to demonstrate the commercial effect that a regulators decision can have. Let us take the instance of the Port Regulator –A private company wins the bid for operating a container terminal. Bid criterion is Percentage of Revenues and the tariffs chargeable are determined by the Regulator on a cost plus basis. The regulator then in a series of steps defines and redefines what is considered cost and allows the treatment of the royalties to be paid to government as costs and calculates tariffs accordingly. In addition, the TAMP calculates Tariffs based on costs and projected traffic and utilization – with no correction or clawback if utilization exceeds projections. Total estimated benefit to the Port operator - \$1.5 Billion. Off course the pioneers in this cost based approach to tariffing were the early power projects – the towering pioneers of this kind of rip-off being a certain Enron Corporation from Houston

Mercifully the cost based approach to tariffing is being increasingly given a go-by by Regulators. But the important point is that there was hardly any debate or discussion about these decisions by the regulator and the windfall gains accruing to the Private company operating as a concessionaire to the Government.

This is the argument for better oversight of regulators – both by Parliament and Civil Society/Media . The less than satisfactory performance of regulators is causing a phenomenon called Regulatory Arbitrage to be practiced by many savvy Corporates – where tremendous value is created for a corporate by either manipulating the Regulatory process or by influencing it and consequently loss to the country.

2

Costs Of Bad Governance Independent Regulators

Businessweek

12th March 2008

So far I've made the case that regulatory arbitrage causes as much economic losses to the country as do the poor decisions by the Executive. It follows therefore, that to ensure the country does not lose financially; we need to build better regulatory bodies and have stronger oversight and scrutiny of these regulators and their decisions and performance - by the Parliament and media.

This article will describe where we are doing wrong on this crucial aspect of Regulatory Capacity building and Regulatory Oversight.

Regulatory capacity building is a deliberate task. Building world class regulators doesn't happen by magic or by executive fiat. It is one of the critical things we need to do as a nation before we can call ourselves developed. It requires the government to identify and develop cadres of committed Professionals who have the capabilities in Economics, Law, Financials, Principles of

Competition etc, just like you need good lawyers and judges to develop a good judicial system; we need good regulators to build a sound regulatory system. Unfortunately what governments have done is to treat regulatory bodies mostly as a resting place for post-retirement bureaucrats and judges. I have no problems with retired bureaucrats or judges, but neither of them have the inherent capabilities required of a good regulator. The counter argument usually is that since the compensation packages are so low, the Government can't get anyone else to look at this job. I think this is one of those arguments put out to defend the indefensible, as is the norm with governments.

Knowing as we do about the economic effect of regulators and their decisions for our country, we have no option but to agree that we have to have world class and competent regulators. The government really must try and develop a new cadre of officers who specialize in this and as a transition measure even look to hiring from the professional and private sector to increase the capability and capacity of these bodies.

Having made the case for Regulatory capacity building let me move to the other critical issue of Regulatory oversight.

How can we achieve this? Parliament and MPs have a very big responsibility in this and so does media. The Parliament has two roles – one is that of legislation and the other is the critical aspect of oversight of the executive and government. Now this oversight role is done usually by asking questions and seeking replies either during the question hour every day or during the course of a discussion of a particular subject. Using the floor of the Parliament as a way of oversight is not a fool proof mechanism and but there are inherent flaws in this – even if TV broadcasting of these proceedings have increased their quality dramatically over the recent years. It is quite evident that the Parliaments executive oversight role is weakening and with shorter and shorter Parliament sessions, Parliament has been increasingly reduced to a legislative body.

The parliamentary committees on the other hand have the power and the role and space to conduct executive oversight. The consultative committees where MPs meet with the Minister or the Standing Committees which get the stakeholders of that ministry including bureaucrats and regulators to depose are solid institutional mechanisms to effect oversight of regulators and executive. However the performance of these committees are patchy at best and can often be reduced to schmoozing sessions for bureaucrats with Parliamentarians. There is way to make these committee hearings more effective, i.e. by making some of the committee hearings public, whilst some can remain in-camera and private. The ones that should be public are where regulators and Heads of Bureaucracy are called to depose and are being questioned for decisions relating to policies or regulations. This will make sure that media and citizens get to be part of this process of scrutiny. Recently I suggested to Somnath Chatterjee, our veteran Parliamentarian and an inspiring speaker of Lok Sabha and Dr Hamid Ansari, Vice President of India and Chairman of Rajya Sabha - the idea of televising some of the proceedings of Parliamentary committees. I think it's an idea whose time has come. This along with the Right to Information Act will finally allow all in the public domain to scrutinize regulatory and executive decisions. Predictably some political parties have reacted adversely to the suggestions and are opposing it. If you are a reader who believes in better oversight of regulators and executive and agree on having Parliamentary committee depositions made public, then I would encourage you to write or email Speaker Somnath Chatterjee and Vice President Hamid Ansari and urge them to open up these committee meetings to the public through Television.

If we are to develop a blueprint for sustaining equitable growth and investments for the next decade, cracking this problem of an often dysfunctional regulatory system that causes these economic losses is crucial.

3

Insiders View: How To Build Better Regulatory Capacity

Businessweek

2nd April 2008

I received a number of emails on the issues I wrote about last time on Regulatory Capacity building and Oversight. Some of them asked me what it means to have regulatory capacity and some were curious to know who could be considered good regulators.

It's quite simple, really! Regulators and/or Bureaucrats need to have the knowledge and integrity. They must be able and honest. Regulatory and bureaucratic oversight by civil society, media and the Parliament will serve the purpose of ensuring they remain honest.

It's not like there haven't been good regulators who stood up to and could take on the vested interests and still do the job of regulating. Ramakrishna and Damodaran at SEBI, Justice Sodhi and Zutshi at TRAI are examples I can think of who meet the twin requirements

laid out above. Messrs Justice Sodhi and Zutshi, who were the Chairman and Vice Chairman of TRAI in those crucial formative years of the telecom sector, did what no Telecom regulator has done since – They covered themselves with glory and credit by introducing a high quality and well thought through regime of Regulation and Competition. They were regulators who had the unenviable task of creating competition and space for private capital – in an area where there was an entrenched monopoly and with its usual cast of characters of bureaucrats and insecure officials, who saw ghosts and other paranormal beings, when the words competition and consumer benefit were mentioned. Like with a lot of Government servants they have neither been recognized nor feted – This is the mistake we make – of not recognizing excellence when it is there and hence not incentivizing similar conduct from others. But this small group is the exception rather than the norm and the challenge is to make this the norm.

One of the main issues of Regulatory bodies has been the over dependence on retired bureaucrats and judges. The argument that's put forth is that no one else will come forward for the paltry salaries. Given the current context there may be some merit in that argument. However with the pay commission report having recommended some upward compensation for our bureaucracy and government servants – this is one issue that we should revisit.

I, for one, am in favour of the principle of revising Government compensation to be in line with trends. For example, how can we expect our beat policeman to be honest and public service oriented when he sees the world he is policing living a standard of life so out of his league. How can one expect a bureaucrat to be honest if you pay him nothing compared to the industries and spends he oversees. In the same vein, how can we get a regulator with the intellect and integrity to regulate multibillion dollar industries if we don't pay him adequately? Why is it difficult for us to bring

better talent from outside the system into our bureaucratic and regulatory system? Economic regulation of the type we require – needs us to have resources which are specialized and capable. Recognizing the importance and role of Regulators, The Pay Commission also recommends a higher scale for Regulators. This is an idea in the right direction but doesn't go far enough.

The inability of us as a nation even today to evolve a reasonably transparent policy towards issues like spectrum allocation, depletion of mineral resources like iron ore and in a lot of cases having these issues hijacked between two competing groups of corporates rather than have the issue/policy discussed and finalized, keeping the larger national interest in mind – is proof of lack of adequate regulatory capacity being brought to bear around these issues.

The argument against paying bureaucracy more – “we aren't getting anything anyway so why should we pay them more” is flawed. We need to invest more in our bureaucracy and regulators with a clear objective to increasing their capacity and in their oversight. We have to do this in mission mode and the compensation increases is but one element of the whole package. I was watching one of those TV debates on this subject – where the anchor usually ends up talking a lot more than the guests. In one of those moments where the anchor had paused to take a breath and one of the guests who happened to be a government officer could speak – the lady government officer made an interesting admission of sorts. In response to a general accusation of the bureaucracy not being transparent and honest – she said there are provisions and processes to make the bureaucrat more accountable but its upto to civil society to use it.

4

Do We Have Free Markets Or Free For All Markets?

Businessweek

21st April 2008

Inflation has hit the Political lexicon in an even stronger than usual way. Part of this is because Inflation is becoming a cause of serious concern for the middle class and the poor and the other less important but noisier fact that it is election season .

This recent inflation spurt has clearly caught the government by surprise – surprised because of the sharpness and velocity of the increase. This tells us one important thing – Someone took his eyes of the ball in the government. Unfortunately, the problem with taking your eyes of the ball if you are the government is that it causes serious economic impact. This bout of inflation is in my opinion at least, a perfect storm – a coming together of negative factors.

For those of who are following this inflation inspired political drama, there have been many sophisticated explanations trotted out – supply side constraints, global inflationary trends, global food grain shortages and several world bank type experts giving their piece of wisdom – all saying basically one thing – this bit of inflation was inevitable – and so please like back and enjoy the pain.

India has had a long history of shielding consumers from Global price shocks – for petroleum for example on the broken backs of the Oil Marketing companies. So some amount of price shock absorption could have been possible with an efficient PDS system. So I have problems in accepting this treatise being handed out that this is some global malaise that we couldn't prevent or avoid. On the contrary there are many systemic weakness/failures that have had a consequential/compounding effect on inflation. My view is that this round of inflation is a coming together of many negatives causing an almost perfect storm like situation – the negatives being a) Global inflation, b) poor Domestic regulation of competition in many industries c) the age old phenomenon of a leaky and inefficient PDS system having a compounding effect on shortages and d) finally the last component of little or no enforcement of hoarding.

Lets look at the second piece of this – the domestic regulation of competition.

One of the most tragic scenes being played out during this whole inflation debate was the sight of the Finance Minister and senior members of the government alternating between some helpless wringing of hands and sabre rattling and threats – against Industry, in particular steel and cement to try and get some control back into their soaring prices. He had made some of the same points in his budget speech but this time his frustration was much more obvious. This whole scene would have been funny if it wasn't such

a tragic indictment of our regulators/institutions failure to manage true competition and thereby a free market. I had made the point in an earlier article that market players were getting far smarter than market regulators – and here was a real life example of it playing out.

The problem of lack of true competition in our economy is becoming clearer when the Steel Industry and Cement Industry or the Telecom Industry can behave with such impunity – where the Finance Minister of the country can accuse them in Parliament of Cartelization and still nothing happens. In the last session of the Parliament, the steel Minister had even rhetorically asked Parliament if it would back him if he took action against Steel vendors for price fixing. Sadly for him his rhetorical question was at the end of a long winded reply to a question and was posed just as question hour got over and thus he was left with no answer to otherwise prosaic question.

I don't have any evidence on this, but the conduct of some of the industrial components of the IIP clearly point to cartel like behavior. In a regime of shortages and in the total absence of any institutional intervention to prevent this behavior – the conduct of some of these companies becomes even more blasé. Any government would expect investors and business to behave this way and maximize their profits – regardless of the moral or other consequences on this. I find this whole approach of using moral appeals to industry very funny if not tragic, because it only signals the government's helplessness.

So my take on inflation is somewhat at variance from that of the government. I see this at least partly a result of poor regulation and the poor regulation coming home to roost in a sudden bang called inflation. I have in an earlier article discussed the instance of a regulator refusing to intervene in a blatant case of price fixing - terming it co-operative pricing and choosing to ignore it. This kind

of laissez faire regulation is dangerous and clearly anti consumer. It is a clear abrogation of the duty of a regulator or executive and has become evident ends up costing the common man as in the case of inflation.

Some moons ago, our Prime Minister at an Industry seminar said that Oligopolies are as dangerous to the nation as monopolies and that true competition is at heart of creating an competitive and efficient economy. I am guessing that he meant competitive and efficient for the Indian citizen and consumer.

But very little happened to translate that vision of his into a reality. Competition levels in our economy remain the same. Arguably with increasing evidence of cartels in Steel, Cement, Hotels, Airlines, Telecom – one can even argue that things are far less competitive today than they were before. There is almost no government intervention when Telecom companies raise prices on the same day, Hotels increase room rates almost simultaneously, Airlines increase ticket charges in a concerted manner. There is very little protest when every public policy debate becomes a debate about two industry groups and not the public – which it would seem obvious that public policy should be targeting. Thus public policy debate on Mineral depletion becomes a discussion/ debate becomes one of Iron Ore Industry vs Steel Industry – The debate on telecom Policy is reduced to a CDMA group and a GSM group and the cleverer group walks away with public policy in his favour. This question needs to be asked and asked again ? Why does public policy have to have choices between industry groups and not the Public?

Free markets don't mean free for all markets where market players dictate to the consumer. Free markets require a government to intervene and intervene decisively if consumers interests are seen to be jeopardized or compromised. In a supply constrained economy – which is not unusual for growth economies like ours – the role of institutions of the government like MRTPC, Competition commission are critical to keep things honest and fair.

5

Slowing Indian Economy

FICCI, New Delhi

20th November 2008

There's absolutely no doubt in my mind that our economy and business is poised at a very critical point today. There is a crisis of confidence in investors, in business – and the crisis of confidence is about the growth scenarios in the forward looking years of 09-10, 10-11. This crisis of confidence has crept down rapidly to the credit markets and banks.

If this crisis of confidence is allowed to continue, it will most certainly become a self fulfilling prophecy and we can then look forward to a dramatic slowdown as in the mid-90s.

FICCI has pointed out repeatedly over the last few quarters that all wasn't well with the economy – in the face of the oxygen being sucked out by the RBI through its monetary policy measures. I say this not necessarily to criticize today but to make a point on

how much we need to rollback our previous monetary tightening. The current liquidity enhancement and rate cut measures by the RBI have had limited effect thus far and Industry continues to reel under this sudden and widespread risk aversion on part of our banking and credit system.

There is very little short term money and it's expensive, as we know from weekend call money rates, and there's almost no medium and long term money available, except for select PSUs and some large corporates.

My suggestions:

FICCI has suggested a series of policy actions and prescriptive measures to stimulate the economy and growth again and this policy prescriptions revolve around the core principle of a steady and measured strategy to grow out of this crisis.

I will share the crux of these new suggestions:

Before I start, I accept the basic premise that businesses that have built business models that cannot weather a moderation in growth rates will and should pay a price, but they should be the exception. Insolvency shouldn't be visiting all businesses and Industry as a whole and hence the issue of general risk aversion in our banks HAS to be solved.

Firstly, the only way to address this malaise of risk aversion is to get confidence going around our growth story. The most important policy action on the part of the government is to get all the focus – monetary and fiscal policies wise - on growth. There is enough potential consumer and infrastructure demand in our economy to fuel growth, if the focus is on growth. We have repeatedly reiterated for many months that we change course from this monetary policy contradiction of trying to manage inflation in an economy going downhill and at the same time trying to stimulate growth. Our inflation is a supply constrained inflation and by suppressing

demand we are damaging the real economy. We are the only major economy and central bank still playing around with this concept of managing inflation through monetary policy – when every other central bank is focused on aligning its monetary policy to prevent deflation, recession and stimulating growth. This is the only way to address this risk aversion in credit markets today.

Secondly, immediate deeper cuts in rate and CRR, and we are suggesting CRR from 5.5 to 4.5 which is same level as 2004/2005 and repo rates to 5% in the near term. These levels enable more liquidity to be made available to the credit and equity markets to step up and address the gaps from the stalled International flows.

Thirdly, the worst affected over the last few quarters, peaking with this crisis have been the Small and Medium Industry and Exporters, both of whom have been impaired for many quarters now due to tightening credit and hardening rates. The SME sector, and indeed some of other industries as well, are being hit hard by Chinese dumping and exporters are being hit by lack of pre-shipment credit and need to do business with open credit etc and freezing of credit lines. We have suggested that their problems be addressed by Government in mission mode. For Eg, stronger anti-dumping measures against Chinese imports, and for exporters, the 90 days window for refunding Excise Duty must be reduced to 7 to 15 days since this is an important source of working capital for them. Preventive action against export slide is critical even from the external perspective of managing Rupee and external liabilities.

Fourthly, increase FDI flows.

Fifth, Railway rates must be effectively reduced, by changing classification – as you know rates have gone up over the last few years for a number of commodities, not directly but as a result of tariff reclassification.

Sixth, NRE deposit rates be increased and a strong FDI strategy be pursued even if there is very little time left for this government.

Seventh, in addition, step up public spending on infrastructure.

These seven ideas are part of the comprehensive blueprint we have put together and we remain very confident that our economy has significant consumption and infrastructure demand capacities domestically on the back of which we can regain growth.

I believe this critical moment can be weathered over by our economy by firm, clear decisive steps and there is no reason for us to be derailed from our broad growth trajectory.

6

Business Community Should Join Debate On Terrorism

Business Standard

27th November 2008

Last night's attack has brought Terrorism yet again to the Economic Capital of India. But this time the targets chosen were in heart of the Economic establishment – with Taj, Oberoi etc the traditional preserves of the Business, Industry, Financiers, Bankers.

While Business has remained in a cocoon so far, looking at acts of terrorism as remote and unconnected to them, it's clear that with this one night, the age of innocence and ignorance is over, it's wakeup time for Indian Business to the threat of Terrorism as a clear and Present Danger. Last nights attack is a clear and unambiguous attack on the Indian economy and all its participants.

I wrote some weeks ago elsewhere that if you have any doubts about the impact of Terrorism on the economy and investments, you just need to take a look at the Pakistan, Afghanistan, Nepal etc all economies ravaged by Terrorism.

The debate about Terrorism has been so far covered by media as purely political – albeit with short breaks to condole the deaths of the many innocent deaths. To add to this, there is a certain liberal class continues to create justifications for terrorism. Lets be very clear, Terrorism is an assault on our country and its people. There can be zero justification or tolerance for terrorism or violence. Business (and I mean all stakeholders of Business investors, shareholders, Employees) needs to join this debate on terrorism and make strong demands of the political leadership of India. Here's what the Business and Economic community should ask for on behalf of itself and for the country as a whole:

1. Strong Political leadership and resolve to win on the fight against terror

There is panic and fear gripping many Indians today. This panic and fear caused by terrorism is now spilling to the economy adding to already severe crisis of confidence that exists there from the economy slowdown and rapid demand compression playing out currently and unfortunately there is a strong perception of an ineffective National security leadership of our country. This is important because in times of crisis like this, people and businesses tend to naturally get scared and nervous at incident of terror and they look to leadership for comfort and confidence. That is clearly not forthcoming.

Only the political leadership can establish this confidence, if they communicate and radiate a strong and unambiguous resolve to win this war and defeat terrorism. This is the starting point; the objective is not to be a hard state or soft state, but a secure state. This frequent and embarrassing 'pass-the-buck-from the center-to-the-state' tragicomedy being played out in Delhi needs to stop. This is a war against India and not against one state or the other. This is the obligation of any elected government to its people and its time we demanded this and if Governments cannot deliver this constitutionally guaranteed right to security, they should give the job to someone who can. Simple!

2. Strengthen the Institutions/Agencies that fight terror

The institutions that are the principle tools and on the frontline in the war of terror i.e The intelligence agencies, The law enforcement and investigation agencies and the civil defense agencies need to be carved out from the all-pervasive and corrosive influence of our current crop of political leadership and be focused on urgently – with a view to enhance capacity, motivation, morale and tools and technologies. And off course a complete depolitization of our Police and other institutions and a focus of bringing talented, committed and high integrity officers back into the leadership of these institutions. In addition an institutional framework that allows inter-state agency co-ordination and significant investments in technology including creation of common information platforms by integrating intelligence, criminal, immigration databases, National ID system etc.

3. Focus on stronger Anti Terror Laws and fast track prosecution outside the normal criminal justice system

It is obvious even to the uneducated that there is a need for a stronger set of laws and a faster track prosecution system. The argument against this has been that such laws will be misused. This cannot be a reason to stall an essential tool in the war against terror. Fighting terrorism without stronger laws, will be fighting terrorism ill-equipped. Rather a solution to this fear of abuse must be created. Maybe a judicial oversight and audit body consisting of eminent citizens and judges that periodically review and audit ‘fairly’ the use of the law and the cases filed under it.

Corporates are accused of rarely standing up and saying the right thing. Its time they did this. Lets not trot out platitudes and empty rhetoric. We have what millions of citizens don’t have. The power to make our politicians listen. Lets put that to good use – to force some changes for the cause of a safe and secure India.

FDI Policy

Hindustan Times

16th February 2009

The country and the economy need to attract more FDI. That is a fact and is true. It is also true that many Indian companies in sectors like Media are struggling to raise equity capital. This new FDI policy may have the effect of raising some Foreign Capital –however even for this objective, at this belated stage of global economic meltdown, this FDI policy may turn out to be too little, too late.

One of the notoriously famous things about FDI sectoral caps in India is that, ever since they came to being in early 1990s, they have been successfully bypassed, circumvented, compromised by smart Indian entrepreneurs, smart foreign investors, a wink-wink enforcement philosophy by the various governments helped and helped off course by smart Indian lawyers with very interesting interpretations about sectoral caps.

I saw this in Telecom sector all the way from the very start in the 90s all the way to recent times, when foreign companies effectively controlled and ran telecom companies, despite sectoral caps and a classification of telecom as a 'sensitive sector'!. There was no attempt to enforce the spirit of the sectoral cap for the most part of the decade.

The recent FDI norms can be viewed two ways – one is that it cleans up and establishes a clear framework for raising capital for Indian companies and increasing FDI flows into India – the other is that it creates big, wide loopholes for foreign companies – loopholes that our policy makers love, because of the wide administrative authority it gives them and off course the wide canvas of subjective decisions to make as well.

While the first is true and is important, the consequence is clearly going to be the latter. It is clear that unless the follow on issue of enforcement of domestic control is unambiguous and clear, this new policy is definite to be abused. The Government of India's track record in enforcement of FDI caps is pathetically dismal. Take the example of Hutchison in Telecom and many Insurance companies, where despite 'Indian boards' the companies were so obviously being managed by foreign investors and partners.

The whole issue of FDI in 'sensitive sectors' must be either black or white – given that most important justification used for sectoral caps, is that these sectors are 'sensitive'.

Either the country takes an open, clear decision to permit Foreign control openly in sensitive sectors or not. There cannot be a grey area that depends on bureaucratic (read political) administration for enforcement. Permitting foreign control openly also permits the right foreign companies- those that respect law and don't operate in the twilight zone of legal ambiguity, to come into the country. If our FDI and sectoral cap regimes are ambiguous and attracts

those Foreign companies who are here because of their confidence in ‘managing’ the administrative and political structure, then they are clearly the wrong kind of Foreign corporates – considering we have many Indian ones who do that anyways!

If Government wishes to not make the sectoral caps a joke, then there must be significant disincentive against abuse. Severe legal provisions that punish companies, investors and those who aid/abet the circumvention of sectoral caps are required to accompany this kind of relaxation of FDI norms.

8

Do The New Rules Bypass Existing FDI Sectoral Caps?

Business Standard

18th February 2009

Until the time it is clarified that sectoral caps in individual sectors will continue to apply, there is little doubt the new policy makes a mockery of the existing restrictions.

The country and the economy need to attract more FDI. That is a fact and is true. It is also true that many Indian companies in sectors like Media are struggling to raise equity capital. This new FDI policy may have the effect of raising some Foreign Capital –however even for this objective, at this belated stage of global economic meltdown, this FDI policy may turn out to be too little, too late.

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9

Economic Agenda 2009

Financial Express

One of the leaders of the Congress Party said on television something very sensible amidst all the triumphalism – that we need comprehensive reforms and not just economic reforms as business and corporates usually see it.

I agree with this completely. This next round of reforms must be a comprehensive process that look at

The mandate of 2009 has given India a stable government, with a Political leadership that is talking of bringing some real change to the country. Whilst these claims are to be tested by time and real deliverables, I am very hopeful that this time around, unlike the last term, there will be real transformational changes.

For most part of almost 2 decades of economic reforms in India, the focus has been on the private sector and reforms of the economy. These have worked - with private capital, private sector and entrepreneurship , playing an increasing role in making the economy more efficient, creating jobs and wealth.

But as I have written before, the state or the Government has not kept pace with progress in the private sector. The Government or state and its representative institutions like Bureaucracy, Judiciary, and Executive have not kept pace with the progress of the rest of the country. This is where the real reforms need to focus on.

In the 1930s, Franklin D Roosevelt, President of the US, introduced the “New Deal” for the US and its people. The phrase itself originates in FDR’s acceptance speech at the 1932 Democratic convention in Chicago, in which he promised “a new deal for the American people”. The various measures included support for, and reform of, the collapsing banking industry, a new stock market regulatory agency, moves to boost wages and prices, the creation of massive public works projects and – perhaps most important of all – the launch of Social Security, the American equivalent of National Insurance in the UK.

Taken together, they not only constituted a “New Deal” to help ordinary Americans. They also initiated a new era of government activism, in terms of both intervention and regulation of the economy. Many New Deal programmes still exist, part of a safety net that even today’s most laissez-faire right-wingers in the US would not dare touch.

India needs a New Deal and the ideas below could be part of India’s New Deal.

I. Governance Reforms and Public Policy priorities

The last decade or so, the focus has been on Economic reforms. Unfortunately whilst the economy has moved ahead, the

government and the government institutions have declined significantly.

The institutions of the government to the most part have been corroded by political interference and influence. Professionalism has given way to political pandering and hence the institutions invariably fail (at high cost to the country and people) to fulfill their duty and role. These Government and state institutions must be made more accountable, responsive, transparent and outcome oriented.

a. Depoliticize, Build and strengthen Institutions

1. National Security, Law and Order institutions - Armed forces, Police, Paramilitary, Intelligence and Counter Terrorism agencies, Investigation agencies to be professionalized, upgraded and removed from Political interference and influence of any kind including transfers, appointments, promotions.

2. Economic - Strengthen the Independent regulators (Amend laws to make them stronger), make them accountable only to Parliament and independent from executive/ministries, have them depose to Parliamentary committees which in turn are available for public viewing or transcripts made public, bring in non-bureaucrats into Regulatory cadre.

3. Judicial - Significantly expand Judicial Capacity by hiring 80-100,000 new judges. Bring in a judicial review commission of Judges that will be responsible to address corrupt Judges and have the power to sentence them. Improve technology to make judicial access for citizens easier.

4. Election commission - Strengthening of Election Commission and to depoliticize appointments to it.

b. New architecture and approach to Government Spending. Public spending is notoriously leaky and fosters corruption and

worst only a small percentage of spending reaching the target. Fundamental reforms in this area are necessary and are long overdue.

1. All spending to be outcome driven. All programs must have clear annual outcomes.
2. New and more effective (less leaky/corrupt) subsidy delivery model - Smart card/ID Card/Common BPL Database oriented etc.
3. Reduction of corruption and leakages in public spending is a key requirement of these reforms in Government spending.
4. Restructure central programs and move most directly to states - add allocations to state budgets and States can administer these programs or other programs as they see fit. These programs must be audited by Independent spending auditors and publish quarterly report cards in the public domain.
5. A new Social security framework that covers unemployment, health and education.
6. New comprehensive policy to address Urban Poor. There is sufficient focus on rural poor today but not enough on Urban Poor.
7. Revamp JNURM for accelerated redevelopment and rejuvenation of our cities and urban centers. Currently JNURM has become more of a program to fund individual projects rather than a full city's development.

II. Constitutional amendments and reforms

The Constitution as framed and amended at various times in our history has not factored for two modern phenomenon - Coalition politics and the Modern opportunistic politician. The Constitution founding fathers had assumed that we would always have one party in rule and that there would be good, capable people being elected to power to steer the country. Unfortunately both those dreams and wishes have proved to be just that - dreams.

a. Constitutional, Legal amendments and Reforms

1. Fixed term for Legislature

2. To prevent repeated elections and political volatility a fixed term for legislature is required. If governments fall, same legislature is forced to form another government and if that fails, Presidents/ Governors rule will continue till the term is over or legislators form a new government.

3. Concurrent state and Central elections - Following from above, to reduce costs and to ensure that elections don't come in the way of governance as they do today, elections to be held once in 5 years.

4. Recall Elections - to recall Elected representatives if they are found to be non-performing or violating the trust of the electorate in forms of impropriety, conduct etc.

5. Amend constitution to make Labor as a state subject.

6. Make Inducements for religious conversions a criminal offence.

b. Devolve more powers to the State.

Currently for many issues there are two separate and distinct government overheads/ superstructures/bureaucracies at work, adding costs and impacting effectiveness and efficiency. There's no logic for many of the central ministries except to give un-gainful employment to ministers and bureaucrats.

1. The constitution can be amended to move some of the concurrent subjects to State list - like Labor, Health, Education, Road etc.,

III. Economic Reforms

a. All sectors of economy (except those of strategic nature to be listed) to be subjected to intense competition. Sustained consumer benefit and economic efficiency will only arise from this.

b. Review the SEZ framework. To frame guidelines for acquisition of National land.

IV. National security and integrity

a. Ensure a National Security Advisor, who is a security professional (preferably from Military).

b. Appoint a retired General as Head of a new Department of Veteran and ex-servicemen affairs.

c. National ID card for all citizens.

d. Create a clear policy towards illegal immigration and migrants.

e. Stronger Anti-terror laws, Fast track Anti-terror Courts and audit/review commissions to oversee application and use of these laws.

f. A new Counter Terrorism Agency.

g. Align all security forces and agencies to our principle threat of Terrorism and evolve a new structure that ensures full, seamless co-ordination.

h. Ensure Armed forces and ex-servicemen, Paramilitary forces and men and their many outstanding demands on welfare, resettlement are addressed.

These are some of the ideas that can go into India's New Deal. This kind of a New Deal will change the face of India and lives of Indians for coming generations.

However in all this triumphalism and celebrations, lets remember that this kind of euphoria and increased expectations are not a new phenomenon. We saw and experienced this in 2004 after the 'Dream team' came into Government. They disappointed then and I hope they don't again. This time around, this is a mandate for a Government with no excuses.!

10

The Making Of The Indian Economic Crisis – An Eyewitness Account

Hindustan Times

18th February 2009

An unprecedented Economic crisis is unfolding around us. Whoever the people of India chose to form the Government in 2009, the challenge to take a fiscally stretched, steadily deadlocking economy and kick start it, will be significant.

Recent IIP data points to a sharp slide in economic and industrial performance. Blue chip companies are scrambling for credit and financing. The Small and Medium scale and unorganized sectors are almost at standstill. The job market is crumbling and there is consensus that most companies could find themselves smaller next year - a result of markets and demand compression.

This picture is startling. Just a year ago, the country and everyone, was celebrating five years of solid growth and unprecedented expansion of the economy, public spending and liquidity.

One of the truths of our current economic situation – which is now being referred to by our policy makers as a ‘Global Economic Crisis’ is that it’s the capping of several months of mis-steps and mis-cues, disregarding data, feedback and guided by a misguided self-belief and hubris. There is clearly an impact of the Global credit crisis as well, but this current Perfect storm was at least 12-14 months in the making and has at its root cause , a period of inaction by policymakers, and a failing to read the signs.

As President of FICCI over the last 12 months, I had a ring side view of the rapid slide of the Economy and have chronicled it as I saw it over that period. This isn’t about hindsight, since at each stage views were made known, backed up by facts and figures.

Mistake no 1: Ignoring signs of the coming Storm

Inflation peaked at about 8% around March/April 2007 and steadily declined to its lowest levels towards end of 2007. Business Confidence remained positive through most of the year. The first Business Confidence decline showed up in Q3 and sharper in Q4 of FE 2007/2008. This was captured by FICCI through its Quarterly Business Confidence Survey and report. This was also broadly the period when the Rupee was strengthening against a rapidly weakening Dollar, creating havoc for exporters – a big reason for the sharp fall in the Business confidence.

Inflation was still moderate at this stage whilst showing a mildly upward bias, hinting at another run-up similar to the one in first half of 2007.

I assumed office as President FICCI in February 2008. The confidence at this stage in the Government was still obvious from the speech by Prime Minister Dr. Manmohan Singh at the FICCI AGM when he assured Industry of a “9% growth despite the growing clouds over the Global economy”. As you would expect, an Industry that was beginning to worry, ecstatically welcomed that

statement – guided by the belief that the economic policymakers knew more than we did!

A few days later, Finance Minister P. Chidambaram presented his budget and referred to his lucky track record as Finance Minister. In response to concerns about slowdown, he said that he will keep an eye on Industry and take all necessary steps if any signs of slowdown/sickness were detected.

FICCI met the Government in early April and shared their concerns about the declining Business Confidence Index. The Business Confidence Data was laughed away. Healthy credit off-take data was cited as the reason to not worry– we researched this, it was clear that the principle decision makers were looking at credit as one lump sum, with no efforts to track credit to various segments of the economy – i.e., PSUs could be borrowing heavily and SMEs may be dropping off the credit radar and Mandarins in Delhi wouldn't pick that up.

This was the first of many encounters with the Government over the next 8 months where the drill would be similar - we would use data and sound the alarm. Policymakers would scoff at it and dismiss us as being 'negative'. The Government's FRBM report tabled with interim budget admits "The decelerating growth phase which kicked off in second half of 2006-2007 has continued in 2008-2009".

Mistake no 2 : Taking the wrong decision on how to manage inflation

Inflation started nosing up sharply in the early months of financial year 2008-09. This was widely understood and accepted to be caused by supply side constraints and bottlenecks. As Inflation became a noisy political issue, signs of Government and RBI using monetary policy to throttle demand, and therefore inflation, became visible. Repo rates and CRR were increased systematically

and sharply, peaking and remaining at growth-adverse levels all the way till Sept 2008.

FICCI protested this strategy - instead, advocating interest rate cuts, relaxing External commercial borrowings, FDI (the government would do this finally - about 10 months too late!) - to address the weakness that was creeping into the business confidence. Pointing out that reducing liquidity and throttling investments were exactly the wrong things to do in a supply constrained economy, where the focus should've been on creating more capacity.

FICCI presented evidence to the policymakers – proving with data and graphs that higher interest rates were NOT moderating inflation – rather, it was hurting Industrial growth and inflation continued to rise – also predicting that such a monetary backed strategy to address inflation was flawed and would cause serious collateral worries and impact on the Industrial and Investment environment.

This period marked a critical breakdown between Industry and Government. Political expediency had won over Economic common sense. From here on, things only started unraveling.

Mistake no 3: Lost opportunity Post Nuclear Deal July 2008

One of the refrains through the period leading to the Nuclear Vote of confidence was that Coalition politics (read as Left support to government) was the main stumbling block to decisive economic decision making by the Government. After the Left-UPA fallout, the team at FICCI working through many days and nights on a trot, put together a 100 day plan for the Government. The document was titled 'Bringing back Confidence in the Indian Economy- A 100-Day Agenda'.

I presented this document on the first day post the Nuclear Deal to the Prime Minister himself. As we furiously and urgently distributed this agenda to economic and political leadership of

the Government, we met with the same distinct lack of urgency. I remember one Policymaker even asking us why we titled it as Bringing back Confidence, since he felt confidence hadn't left.

I remain convinced that if the Government had showed some urgency at this stage, the effects of the Global credit crisis could've been mitigated to some extent (since almost all the monetary and most of the fiscal steps we had suggested got implemented afterwards anyways!)

Mistake no 4: Reactions to the Global Credit Crisis

When it finally hit, the Crisis clearly caught Government wrong-footed. I suspect that initially there was a tendency to continue the 'All's well, Nothing's wrong' syndrome, because it took the PM sometime to meet with the Industry on 3rd November 2008. Turns out that some State CMs had already met with their local industry and businessmen to discuss the crisis, before the PM's meeting.

That meeting with Industry, where the mood was still upbeat (or denial – you choose!) where the Business leaders stuck to flowery prose about their confidence in the Government to address this crisis (They have since changed their mind obviously, given their comments in more recent days!).

FICCI presented at this stage, yet another blueprint to the government, urging a more direct and rapid intervention by the Government of aggressive monetary rollbacks and fiscal packages. Unfortunately the Government chose to take a gradualist approach of monetary rollback and timid fiscal packages, despite much talk about 'contra-cyclical measures' by the Government. The effect of this is all very clear today – sharp decline of industrial production and economic growth, sharper decline in confidence, crumbling job market, strained government finances with little fiscal headroom for anything more in the short term and a very uncertain outlook for the future.

There are other mistakes that were made, particularly in the public spending area. The unprecedented expansion of public spending was accompanied by weak delivery mechanisms, and most importantly, inadequate allocation to public infrastructure programs, which is most important for any ‘contra-cyclical’ plan.

There is a moral in this story for Future governments and for Industry. Rhetoric, hubris and self confidence are no substitutes to Data-led, micro and macro management of Economy. There is no substitute to keeping your finger on the pulse of the Economy. Just like companies, management requirements for a growth economy are very different from an economy operating under recessionary global environment.

11

Public Private Partnerships

Business Standard

11th January 2010

The last article I wrote in 2009 was about the need to rethink PPPs and I start 2010 after discovering the Comptroller and Auditor General's Guidelines on PPPs. A fine document that was published in late 2009 and hasn't received the visibility and debate that it deserves. I must admit that I wasn't aware of the existence of this document. There's a message in this for the CAG as well, which must ensure better visibility, especially amongst media and Parliamentarians, about their efforts at ensuring better oversight and administrative conduct. The old axiom of Good Work alone isn't the solution; it's good work being put to use that's important!

The foreword of the CAG – Mr. Vinod Rai, lays out the importance of the role of PPPs in national infrastructure creation and establishes the primacy of need to encourage more and more

such projects, but defines precisely what PPPs ought to be about – “whether these arrangements are truly in public interest and are also fair and balanced in sharing of risks as well as rewards”. This is truly the best way to assess a PPP!

The objectives for PPPs as laid out in the guidelines are clear and unambiguous. They include amongst other things the following:

1. Encourage Private sector involvement in Public Infrastructure and services where ‘value for money’ for the government could be clearly demonstrated
2. Encourage innovation in the provision of Infrastructure and services
3. Clearly articulate accountability for Outcomes Further, in page 16 of these guidelines – in a section called “Role of Private Sector Partners in PPP Projects”, the document spotlights the tendency to ‘over engineer’ and pad the Capital costs of PPP projects. The key principles have been, therefore, understood by the CAG and the guidelines are the best litmus test for every PPP to pass.

The crux of the need for this reformed approach to PPP is simple – It is about the costs and money! While the need to develop infrastructure is agreed, the focus now must be on the best and lowest cost way to get this infrastructure. The approach thus far has been ‘at any cost’ (ala ENRON, or Bangalore International Airport), and these guidelines seek to move us away from that approach.

It would be interesting if someone - from the media, perhaps, or even the CAG maybe - takes a sample set of Infrastructure PPPs like Airports, Gas, Mines etc and sees how they measure up against these CAG guidelines. I will not prejudge the results, but have a gut feeling that most existing PPPs would fail these guidelines – if true, that would be the case for a reforms / improvement in commercial terms for PPPs.

In any event, now that the CAG has established the principles of PPPs in the form of these guidelines, it is for the Governments and Ministries to ensure that all PPP proposals comply with these guidelines and a start would be that all Government approvals for PPPs should be subject to these guidelines. The Finance Ministry ought to be the Ministry that should ensure this and also use its financial allocation powers to ensure these guidelines are followed by State Governments as well. CAG should further have special audits of all PPPs and place them in the public domain to ensure better visibility and transparency around these commercial PPP Contracts.

On my part, after discovering this document, the first thing I did was to officially send it to the Chief Minister, Chief Secretary and Industries Secretary of my state Karnataka with a request and hope that they would follow these guidelines for PPPs. Our country needs infrastructure and this decade needs to be a push for massive investments in infrastructure – and with these guidelines, this push for infrastructure and PPPs can be through a more cost-effective and balanced partnership approach as well.

12

Bhopal Gas Tragedy

Business Standard

28th June 2010

One of the underlying threads to ‘incidents’ where there is loss of life in India, is that - no significant person of stature has been held responsible and punished, while thousands of Indians – our own citizens and countrymen/women have suffered the loss of their loved ones.

It is in this background that we need to ensure that Bhopal isn’t another case of sweeping corporate crime under the Carpet. The thousands of shattered families in Bhopal deserve to get justice and closure and we owe it to them even if the guilty are the rich and powerful.

In our country Public policy is significantly influenced by Corporate lobbying and so called icons of industry with hardly any challenge being posed. So the fact that there will be some effort at soft peddling the concept of corporate negligence isn’t surprising and

so it is with recent efforts to amend the Companies Bill, 1956. The argument being advanced by some chambers of Commerce that prosecution of Directors of this company will somehow impact the 'availability of independent directors'. This would be laughable if it wasn't so sad and pathetic.

The whole idea of the institution of Independent Directors – is that they are independent from the management and therefore they are trustees of other shareholders and therefore are obliged to be more aware and to probe and ask all the questions of the company that are relevant. ie Independent Directors have obligations for which they are responsible. A board of Directors is not a cozy club, as much as some promoters would like it that way. Further it is upto each company and management to establish trust and credibility to attract Independent directors who have confidence to be on the Board . At the same time, Independent Directors are on the board to be aware and to ensure the Corporation is conducting its businesses fairly and as per law. So in short Independent Directors bear responsibility for the actions of the Company.

The lobbying by some business bodies like CII to protect Directors from criminal liability and moves to amend laws to seek immunity from the laws of the land is not tenable. It almost seeks to suggest that Independent Directors do not have any obligation or responsibility in the civil/criminal mis-conduct/negligence of company - that is found to have committed the mis-conduct. This is an unacceptable proposition – Independent Directors are liable and a claim of ignorance of what management is doing or not doing isn't an escape out this obligation. That is what the law is almost all over the world and should be here as well. The issue of personal exposure of the Directors can be addressed separately by each of the Individuals concerned - Independent Directors in India as elsewhere can seek better indemnification and protection from the company/management/promoters, They can seek Directors insurance etc to protect themselves as individuals.

But the law and the core principles of accountability and directors obligations cannot be and should not be diluted at the behest of a few worried corporates/directors. That would be counter productive – encouraging in a way, Independent Directors to remain ‘unaware’ and ‘ignorant’ in their dealings with company and management – It also that reeks of double standards – suggesting that some privileged group are above laws that govern the ordinary citizens of country.

I was expecting a spin to start in support of this proposition and so I wasn’t surprised by the statement by Deepak Parekh - who is quoted as saying “I agree Bhopal is our worst tragedy.

But we can’t get emotional about it. Just by putting a Chairman and CEO in Jail is not going to solve the problem!” .He is of course wrong – holding a Chairman or CEO guilty isn’t something that should be thought of being special. If a person violates the law of our country and is found to be negligent, regardless of whether he is Chairman or CEO that person should be found guilty and be held to the consequences of that under our system.In effect, he is suggesting a double standard in how we enforce the laws of our land.

That may have worked the last 26 years. It won’t anymore. We cannot allow this double standard anymore. This is the only way our system send a message to other lawbreakers.

Break the law and you will held accountable. Dilution of the current law will dilute the core principle of accountability and all arguments advanced should be rejected for what they are – a plea for double standards and dilution of accountability.

13

Malgovernance Perfect Storm In The Season Of Scams!

Business Standard

18th March 2011

Normally, each one of the recent government scams (Unproved or mis-steps or Procedural lapses as the Government spin masters refer to it) – Cash for votes, CWG, Adarsh, CVC, 2G spectrum, Radiaa Tapes etc. - would have been shrugged off by cynical Indians as nothing new. But the script that has played out to millions of Indians – of a close sequence of scams and a revitalized Supreme Court – has clearly caused a lot of discomfiture for an otherwise respected Prime Minister and his Government that has played the Economic Growth tune for the last 6 years. The wikileaks evidence that has brought the focus on the questionable Parliamentary vote of confidence in 2008 is enough to make all our heads hang in shame!

These scams (referred to as Governance Deficit by some Businessmen from Mumbai) have exposed the seldom talked about, but always present ugly side of our democracy and Capital. That Special interests and Big money are heavily entrenched within the Government system and increasingly brazenly capture of our Democracy itself and public policy – by capturing Political or bureaucratic or regulatory leadership or all of them. Crores of rupees are being made out of Public assets or Public Spending/ Contracts by these vested interests with hardly a peep out of anyone, either in Government or, sometimes very disconcertingly, even the media. The same story is being played out in various state capitals as well, but the size and scale of what’s happening in Delhi is, of course, unrivaled.

Corruption is not the problem – but rather, Corruption, Nepotism and Special interests are the symptoms of a deep-rooted malaise in our government system that is threatening to dismantle and derail the concept of public life and democratic government that our founding fathers had envisioned.

This perfect storm in the season of Scams would have been shrugged off by the spin that Governments in power are often so capable of doing. But it is the Supreme Court and Institutions like CAG that have filled the vacuum left by this Malgovernance. The belated but powerful response of the media has left the Government with little room to spin their way out of this, despite some unfortunate efforts by some senior representatives of this Government.

In the Central Hall of Parliament – that meeting place for MPs, former MPs and media - there is a palpable sense of embarrassment and shame amongst many MPs – all in agreement with the indefensibility of the Government vis-à-vis these scams. Even ruling front MPs have begun to talk about the need for reforming the way the Government works – to bring in more accountability. A senior MP from the ruling front said to me in Central hall “I

haven't been in Political life for so many years to see public life come to this!"

The Finance Minister's Economic Advisor said in his Economic Survey "For India to develop faster and do better as an economy, it is, therefore, important to foster the culture of honesty and trustworthiness." He also said – "Hence, to cut down on corruption and pilferage, we have to design policies in such a way that there is no incentive for ordinary citizens and the enforcers of the law to cheat."

These words reflect a sense of responsiveness from the Government machinery to the collective outrage being felt by the people of our country. I am an optimist and I believe we are at a critical inflexion point in our democracy and form of Government. The collective will of a 1-billion plus Indians and a reenergized media can only force the change, and to a Government system that will oppose change, I remind them of what Kennedy said – "The problems of this world cannot possibly be solved by skeptics or cynics whose horizons are limited by the obvious realities. We need men who can dream of things that never were."

To those politicians who continue to believe in the axiom that with time, people will forget, I can only say this – Indians are trusting and by and large forgiving of errors and omissions – but they will shock you with how silent and sudden their revenge at betrayal of this trust would be – It will be too late.

The Growing Distance Between Delhi And The Idea Of India

Sunday Standard

3rd April 2011

Of all the recent scams emanating from Delhi that are slowly but surely destroying the original idea of India - the cash for votes scam – relating to alleged bribes and inducements to MPs during the 2008 Confidence vote in Parliament – strikes at the heart of our democracy! It lays bare the real influence of money on our Governance and democracy. It has exposed how vulnerable our republic really is to the increasing influence of money and how far we have drifted from the idealistic vision of a democratic republic that our founding fathers envisioned and many thousands of men of our armed forces have given up their lives to defend. While we always knew money was being used to capture public and government policy – that it is also now being openly used to blatantly capture democracy and therefore the government, is alarming!

That there is a need to reform our Parliamentary system is now becoming obvious. If majorities can be bought or manufactured, then the very premise of democracy – i.e., that it is representative of a popular mandate - gets turned on its head. This decline is not just about Parliamentary Values or Probity; it marks a structural shift in the dynamics of our Politics and current model of our Parliamentary democracy. The concentration of Political power and unfettered discretion and its liberal misuse is creating crony capitalists and a politics that lives of this in a mutually beneficial symbiosis of exploiting the nation. Delhi is now being defined by this. As Raghuram Rajan, the Chief Economist of IMF and Advisor to the Prime Minister says “If we let the nexus between Politician and Businessmen get too strong, we could shut down competition. That could slow us down tremendously and maybe create questions eventually for our democracy”. He said this in July 2010 and this is eerily prescient of the recently surfaced evidence about cash for votes in Parliament.

While the post wikileaks debate in Parliament morphed into a sophisticated legal argument between two lawyers (Chidambaram and Jaitley), the most common sense points were made by Sitaram Yechury and Sushma Swaraj – which goes to the core of this issue. How can the Prime Minister with all the intelligence and Policing machinery at his disposal use ignorance as his defence at every evidence of this horrible crime?

Sitaram Yechury made an even simpler point about the Prime Minister’s claim that no crime was committed during vote of confidence – “If so, why did the Parliamentary committee ask for further investigation?”

So even the most hardcore and cynical of politicians in Delhi or any state capital will tell you, recent incidents mark a low point in our 60-year old democracy. And while there is renewed focus and

spotlight on the Political system, a debate has started and needs to be vigorously followed - on the role of the Media around this cash for votes debate.

Does the active participation of a channel with a political party in a sting constitute watchdog journalism or something else? Or is breaking a story (as an exclusive investigative story) by a magazine that essentially represents the Government's version of what happened – represent independent investigative journalism or something else?

The Media or the fourth estate – having a role as a watchdog of democracy – is clearly showing signs of having abdicated the role of watchdog and replaced that, in many instances, to that of tamed, defanged or domesticated versions.

Our capital Delhi was once a fountain head of idealism, national service and commitment to the Idea of India. The concentration of political power and discretion has caused Delhi to morph into a gathering ground of special interests like vultures and hyenas circling around prey. The concentration of media power in and around New Delhi is as much a cause of concern as the concentration of Political power and special interests in Delhi. Just as there needs to be alternate political discourse that's focused on reforming our Political and Parliamentary system, there needs to be debate on reforming our Democratic watchdog – media. In short, if we in the rest of India want to preserve and protect the original Idea of India

–we need better oversight of Delhi.

Ideas For Budget 2012

Economic Times

The Indian Economy is currently witnessing significant headwinds – origins of which are in global and domestic factors, and needs a powerful stimulus to regain confidence and growth. The next few years are critical for our economy and our country. It will require real political leadership to ensure that the economy remains stable, strong and offers opportunity to more and more of our countrymen/women. As the Government prepares to announce the Union Budget for the next fiscal, here are some ideas that the Government can consider to increase investments, bring in reforms in Government spending and boost revenue. The Government should use Budget as an opportunity to strengthen the economy, besides setting a benchmark for governments to come.

Boost in Investments

Our Economy can only grow on a sustained basis, If there is a consistent and sustained flow of investment capital (both Foreign and Domestic) into all sectors of our economy. This potential for significant investment flows is being held back by several structural impediments in our Public policy and approach.

Here are some ideas to unleash investment flows:

1. The Government must have a renewed focus on FDI to increase strategic capital flows into our economy in all sectors.
2. Failure/ compromise of institutions like independent regulators are leading to repeated instances of public policy and regulatory capture of vested interests – in turn, leading to a perception amongst investors that our country is fraught with policy volatility and unpredictability and therefore high risk for investors. Reforms of the Independent regulatory framework are needed to ensure long term public policy stability and consistency and give confidence to investors.
3. The Government must also strengthen the Competition Commission of India (CCI) to ensure that monopolies or cartels are not created in Indian economy, either foreign or domestic.

Reforms in Government spending

Creating a Value for Money Culture within the Government Public spending in our country is notoriously leaky and fosters corruption / nepotism, with only a small percentage of spending reaching the targeted audience. Fundamental reforms in this area are necessary and long overdue.

To address this, a value for money culture / fiscal responsibility needs to be ushered into the Government – a culture that reinforces the truth that the Government is only a trustee of public money

and assets. The spending of this money and the handling of public assets must always pass the test of national good. This can be done through the following measures:

1. The Budget should ensure detailed statutory disclosures of public spending through increased use of technology. Fiscal transparency generates significant benefits, as it is an important precondition for better governance, improved economic performance and prudent fiscal policy, resulting in lower deficits and debt accumulation.
2. Make citizens more involved in their national budget by simplifying the budget document and making it more readable with simple summaries etc.
3. Introduce into the budget a discipline and rigor of ensuring that all spending / programs are linked to clear outcomes.
4. Unveil and roll-out multi-year subsidy delivery reform architecture.
5. A new effective oversight and monitoring mechanism of all decisions relating to big-spending Government programs, contracts and public assets.
6. A completely from basics relook at Central spending programs with a move to restructure central programs, remove overlap to make this form of spending more efficient. A bi-annual report card of all public spending programs to be introduced.
7. Introduce a six-month plan to trim all wasteful Government plans and expenditure.

Boost Government Revenue

The government must consider unexplored avenues for taxing and ways to monetize strategic assets such as gold to give a stimulus to the revenues.

Some ideas that can help Government boost revenues are:

1. **Taxation on Derivatives:** The idea of taxing derivatives is completely unexplored in India. Introduction of transaction taxes on all equity, forex and commodity derivatives would be an innovative and bold measure, which has the potential of raising thousands of crores of revenue for the Government, and also contain speculation which destabilizes the financial market.

2. **Windfall Taxes for Windfall Gains for Private Investors in recent Telecom Licenses and PPPs:** The Government should recover the money swindled in the recent 2G spectrum scam, by imposing windfall taxes on companies who have gained by resale of their licenses / spectrum - since these licenses were obtained cheaply in 2008 at 2001 prices, and without auctions for spectrum (and therefore foregoing potential revenue for the Government). Also, the rules and percentage on how the windfall gains will be divided between the Exchequer and operator / investor should be clearly articulated. Windfall gains taxes can be also applied to other PPPs as well.

3. **Long Term Stability in Taxation Policy:** There is a need for a more stable and long-term taxation policy to achieve higher economic growth and stability, efficient resource allocation and equitable distribution of income.

4. **Gold Monetization:** One of the steps that the Government can take to ensure a powerful stimulus to our economy is gold monetization. Gold is an invaluable asset which can be used by the Government to stem the external stress and also reboot the hanging domestic growth, as it has the potential to release equal amount of investible resources for domestic economy. Despite India being the biggest gold buyer and importer, it has not been able to influence or control the global gold prices because its import is not strategized by a national policy. This can be achieved by transforming idle gold into a strategic forex asset and active capital

Reality Check: Aadhaar Is A House Of Cards And Rests Primarily On Hype

FirstPost

12th February 2014

One of the defining attributes of the UPA Government has been its almost casual / unaccountable approach to spending public money on 'schemes' and dealing with Public assets like spectrum, coal, land etc. Words like 'whimsical' or 'unaccountable' comes to mind, when evaluating this Government's spending and profligacy.

UID a.k.a. "Aadhaar" is one such programme – costing the taxpayers thousands of crores so far - but with seemingly zero thinking or preparation on specifics, no clear outcomes, but with extraordinary amounts of hype and rhetoric instead. Sadly, the hype and rhetoric haven't been given a chance in all these years to be challenged or debated in Parliament or outside within the public, despite repeated calls for it. One of the tragic characteristics of our democracy is that we allow this type of hype to go unchallenged and untested on its merits.

Let me say as someone who understands technology, Governance and the issue of corruption more than just a little, that Aadhaar, in its current form, is a house of cards and resting primarily on hype, and will surely not achieve any of the laudable objectives of eradicating corruption. This will become obvious to many, as the layers of hype are peeled off and the stark reality becomes obvious.

Here's an abridged dose of reality:

1. Aadhaar does not give identities to Indians

The fundamental claim is that Aadhaar gives an Identity to all Indians. This is the most explosive falsehood in the Aadhaar proposition. Aadhaar simply takes an existing ID (Real or Fake), of anybody (Citizen or Foreigner or Illegal Immigrant) and issues a number, i.e., there is no identity verification, and so, there is no identity being issued. All Aadhaar does is link the potentially fake or true ID information to that ID holder's iris or Biometric information. So if Mr. X had a fake ID all these years with his picture and address, he now continues that fake id, albeit with his iris and biometric instead of his photo. So, there is no way of knowing how many fake entries are in the Aadhaar database, because Aadhaar does no verification.

To compound this, Aadhaar uses a structure that is incentivized, it would seem, to generate fake applications. This structure uses small private firms which almost subjectively decide on Identity documentation, with no check on their capability or background for enrollment, in exercising no supervision of their activities, in not following up on the criminal acts of these firms and in absolute lack of due diligence in appointment of these agencies and contractors.

There are several FIRs in several police stations against these so-called Enrollment agencies who have been nabbed with fake forms, and several TV channels have aired stings on this. No answers are

forthcoming on what happened to these fraudulent applications did they find their way into the database? I specifically asked a question in Parliament about instances of Fraud in Aadhaar and the Government has so far ducked answering it.

2. Aadhaar is a National security risk, it's being issued to non-citizens and illegal immigrants Aadhaar has changed its tagline recently to 'One India; One Identity'. This is again a dishonest play with words. It makes no effort at separating citizens from non-citizens. Any national Identification platform should, at the very minimum, be able to determine who is a citizen and who is not. And so, one issue that arises from this is that taxpayer-funded subsidies and cash transfers will also be availed by non-citizens and illegal immigrants. This is a significant and fundamental issue that should have been transparently debated. Benefits by definition can only be given out of the budget to the citizens that are entitled to them. In a recent Meeting of the Parliamentary Standing Committee on Finance, I asked the UIDAI - of all the Aadhaar numbers issued, how many are citizens and how many are non-citizens - and I was given an answer of 'we don't know'.

The Aadhaar project is also facing a challenge from the Intelligence Bureau (IB), over the UIDAI issuing the card to foreigners and refugees from other countries. This comes on the heels of a Supreme Court order on September 23, 2013 that an Aadhaar card can't be issued to an "illegal immigrant". The court had also said that beneficiaries of welfare programmes shouldn't be denied benefits if they don't have an Aadhaar card.

The IB has raised objections to the possibility of Non Resident Indians (NRIs) and foreigners living in the country obtaining Aadhaar cards and has said the issuance of such cards was not based on proper verification of the applicant.

So here's the bottomline - Given the sloppy and/or unverified identities at the enrollment stage, issuance to non-citizens and

illegal immigrants, and a technology that has serious question marks - Aadhaar is creating a database that has serious issues about the integrity of the information in it. This, in turn, leads to several dangerous issues that arise – especially when it is bandied about casually as ‘The Identity’ – in terms of national security and citizenship and many issues that flow from that. As anyone who is privy to the concept of citizenship, Citizenship as defined by our constitution has to be verified and not accepted on declaration. In its current form, Aadhaar cannot be an identity.

3. Aadhaar does not improve targeting of benefits and subsidies; Increases costs

The fundamental use of Aadhaar, i.e., that of identifying citizens that are entitled to specific benefits – falls flat. Because it continues to use the same data that is causing the corruption and leakage i.e., BPL cards and other traditional forms of ID. In summary, the data that Aadhaar uses is the same historically compromised data and identification. There has been no evidence or any data put out by the Government that there is any improvement on targeting subsidies.

Neither the Government nor UIDAI had put forth any real evidence to justify the tall claims of preventing leakages in subsidies including the DBT in LPGs. In fact, the LPG cylinder issue is a clear case where Aadhaar has proved that it is not helping leakages. In certain areas like ATM banking, by insisting that banks upgrade to Biometric ATMs whose costs will be passed onto consumers, banking costs will increase.

4. Aadhaar raises significant Privacy issues

Aadhaar involves collection of a large amount of people’s data and centralization of this data in their databases. Predictably, real issues of privacy arise, in a country like ours, where privacy laws are not robust and the issue itself not fully or adequately debated.

The privacy issue is even more dangerous given the track record of Governments and bureaucrats in India. As the New York Times wrote “Unsurprisingly, some people see the idea of a centralized identity database as a dystopian nightmare. Privacy advocates contend that the government will use it to track citizens, a serious concern in a country where the government carries out extensive wiretapping and surveillance.”

5. Aadhaar is inconsistent with the way the country is evolving

As a matter of fact, given increasing federalism and financial devolution, what is required is more state level identification and databases. The model of having a central government managing subsidies directly to its citizens from Delhi is inconsistent with the future model of Governance. The current ‘one shoe fits all’ model of subsidies and benefits developed in Delhi will evolve into one with increasing financial devolution to states; states will form their subsidy and benefit schemes.

And for some unpeeling of the hype:

(a) Aadhaar is an unprecedented effort at Identifying Indians, It is technological innovation Aadhaar’s hype and PR machinery has been very impressive, but running too far ahead of its reality. To call it “technological leadership” is surely letting the hype get hugely ahead of reality.

Aadhaar is a data collection exercise and creation of a biometric database. That’s it. Further, it uses foreign hardware and software, and technologies that have serious lacunae.

Technologically, it is not unique; it has been done before elsewhere. What is significant is the size and scale of this effort, but even there, there have been and there are several efforts of large scale data collection by Government of India agencies with its citizens – by Election commission, by Census, the National Population Register effort - which have received none of the publicity that the Aadhaar effort has.

(b) Aadhaar is unique and portable

Saying that Aadhaar is unique and portable, is saying the obvious as if other IDs are not! The reality is that ALL IDs are unique and portable, be it passports, driving licenses etc. Actually, while passports can be used in India and all over the world, Aadhaar cannot, since it does not determine citizenship.

The need for a national identification program remains. Aadhaar started with good intentions, but it is mystifying why it has morphed into this. What should have been a demonstration of technology being deployed in a cost effective way to improve Governance, and deliver benefits through a robust diligenced citizen identification process and highly reliable database, is a far cry from that.

The question today should be why has it come to this. Why these short cuts? Why the reluctance to accept the Parliamentary Standing Committee recommendations on merging Aadhaar with the other expensive project of the National Population Register, especially in these times of financial hardships in Government? Why did the Government not allow this project to be discussed all these years in Parliament?

I now read and hear that Aadhaar is a part of the 'vision' of the future leadership of the Congress. The brutal reality of vision is that unless it comes attached with specifics, the fate of the vision will be failures like this. Hype and rhetoric are no substitute to real targets and outcomes. Since vision and solutions are the new buzzwords in Delhi, both vision and solutions need to be real and money spent on them justifiable. Neither is true in Aadhaar.

Technology Will Help PM Modi Achieve Many Of His Objectives And Help BJP Govern

Mail Today

3rd June 2014

The recent list of top 10 priorities released by the Prime Minister's Office goes beyond being a list of priorities. It defines the framework and specific steps that the Narendra Modi-led government plans to take to pull the country out of the morass in which UPA left it. On the face of it, several such as "addressing concerns about economy" or "implement policy in a time bound manner" may seem like general, apple-pie and motherhood statements. However, in reality, this is the kind of central focus and tactical change that is most needed.

The UPA was accused for being so focused on rights-based legislation that it completely took its eye off the economy. It forgot the simple maths which requires an economy to earn money to take care of its people. Secondly it was accused of policy paralysis.

So a time bound decision making regime across Ministries would let citizens and businesses know exactly where they stand and what to do when the timeline expires. This is not non-trivial. The more important piece amongst the 10 priorities is the specific shift towards use of technology, e-auctions and commitment to transparency. It is regrettable that India, with a US\$100 billion IT sector, uses very little of that to support national processes or moving citizens along the lines of e-governance.

While it is generally well known that use of technology and e-governance via ICTs improves effectiveness, efficiency, transparency and accountability of government, it is the specific ills that can be cured which are much needed at this time of great transformation.

Firstly, technology bears a direct relationship with promoting economic development. It enables governments to improve business environment and clarify processes and relationships with businesses by reducing multiple administrative red-tape related steps. It addresses issues of regulatory compliance on one hand, but also allows for a much deeper level of competition due to simple processes such as eprocurement.

Secondly, e-governance goes to the heart of transparency in decision making. Voluntary information by Ministries on websites is far better for citizens than struggling with RTIs. Publicly listing Parliamentary debates, meeting minutes, statements related to budgets and documents, arguments and discussions leading to key decisions, can bring in transparency and accountability in ways that nothing else can. Simple measures like online tracking of documents, files or applications by citizens and the media can bring about a huge change in favour of transparency and accountability. Then is the link between e-governance and the administrative piece which results in the actual “governance”. Components of the government and public administration, such as e-files,

computerised ministries, and electronically available information about officers, leads to greater efficiency in public administration. It allows for improving expenditure, better data analysis, faster movement of civil servants and a higher level of information and intelligence with those who are responsible for ensuring that the wheels of the government churn non-stop with a focus on citizens.

While the priorities mentioned by the PM list “people oriented system to be put in place” and “stress on addressing people’s problems”, nothing would serve that cause better than technology for service delivery and grievance redressal. It cuts down on bureaucratic procedures, and provides citizens access to information, along with expectations of a meaningful response. Placing government services on the Web allows e-government to cut bureaucracy and improve the quality of service by way of speed, quality and access.

The 10-point priorities signal a move towards ushering in an e-society. This would mean not just addressing all existing issues facing our telecom and IT industry, but using those services, network and ICT solutions across other Ministries. It would need capacity building amongst government employees and mostly by retooling existing skills at a massive scale. Government will need to focus on developing new academic courses and modules not just at school and college levels, but across its employees in the Centre and States. All below 45 years in government must possess the basic skills to help usher in e-governance and e-society within the next two years. Those above 45 should be afforded every opportunity, but if not, then given roles which don’t come in the way of Government’s plan to use technology, not just for delivering services, but for communicating with its citizens.

Finally, India’s success in the IT sector was a factor of outstanding technical skills and lower costs. That advantage is slowly shifting out to other Asian, and especially, Central European countries.

Large scale deployment of technology will help substantially decrease costs of processing and providing services vis-à-vis the current manual interventions.

Additionally, faster and better quality of information will also enable a lower cost structure for government, businesses and the economy as a whole. Given our state of fiscal deficit, a move towards low-cost and high-efficiency technology solutions within the Government can help radically change Government expenditure over the next 4-6 years. Whether the focus is on government to-citizen, government-to-business or governmentto-government, there is a need to go beyond the directional statements in the top 10 priorities to implement, using technologies, a vision for an India which is already home to 850 million mobile users and 220 million Internet users, of which over a 100 million are already on social media.

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Modi's Fast Track To Global Leadership

India Today

18th July 2014

Prime Minister Narendra Modi's ongoing visit to Brazil and then to the US are his first exposures to the big league of global diplomacy—BRICS, United Nations and the US. It doesn't get any bigger. Without doubt, his speeches and position will help the world see him in the right light. While there are several deals that he will need to close, dialogues that he will need to enhance, and discussions that he will originate, there is at least one that provides Modi the opportunity to be acknowledged as a global leader, who represents not just the aspirations of 1.2 billion people but the citizens of the world at large. This is the issue of Internet Governance (IG), which impacts all 7 billion people on the earth—3 billion online and 4 billion yet to be connected to the web.

The fact that Modi thinks of the internet space carefully and uses it strategically is clear from his statements about the web, 19

million Facebook and 5 million Twitter followers, and the kind of discussion that he held with the Facebook COO, Sheryl Sandberg, recently, where he chose to concentrate on the positive aspects of social media. He discussed ways to utilise Facebook for running a national cleanliness campaign on the eve of Mahatma Gandhi's 150th birth centenary.

His mindset, focus and experience perhaps places him in the best position to seek global leadership on an issue where the world, particularly the US, lacks both leadership and direction. This is also an opportunity to gain global recognition by placing India as the country which can provide a neutral platform for global dialogue on all aspects of IG. In fact, if corruption and governance were the big platforms for the national elections, IG equals that—beyond climate change, global trade and disarmament—at an international level.

However, there are several steps that need to be taken by Modi to be recognised as a statesman the world can trust.

One, like Switzerland acts on several contentious issues, India should become the 'go-to' country for discussions—to be seen as a consolidator of voices, rather than be seen as divisive through any extreme position on IG.

Two, full-scale, merit-based, multi-stakeholder consultation should take place within the country.

Three, cyber crime and IG are separate. Cyber crime is a significant but small part of cyber security. One should not confuse the small but important cyber crime space with the large and complex aspects of the IG dialogue.

Four, steps should be taken for picking the most articulate, influential, nationally and globally recognised resources working in tandem with the Department of Information & Technology as ambassadors to position India at global fora.

Five, steps should be taken to give the world the confidence that by becoming a neutral destination for discussion, India will not sabotage the dialogue with its own agenda or preconceived positions.

Remember, everyone else who has attempted this has failed. Brazil's Dilma Rousseff achieved some minimal success at Netmundial earlier this year, but it was still a very small conference as compared to the number of voices that need to be included in the IG space. Modi needs to think bigger. Much bigger. India's concerns about the US-based, NSA-led surveillance reports cannot be undermined. Those need to be firmly taken up with the US government. But any attempt to paint the global IG dialogue, either with surveillance colours or an anti-West tirade where India hopes to lead the global South, is misplaced. Sure, the MEA could leverage this as a negotiating strategy for diplomatic brownie points and make things difficult for a global consensus, but that's all we can get in following such an approach. Such an approach makes India the world's tallest dwarf, and not a global leader.

Thankfully, we are positioned well and Modi has personal credibility as one of the political authorities who uses the web for his personal communications. With 800 million mobile subscribers, 220 million internet users—half of whom use social media such as Facebook—no one is better placed than Modi to occupy this space. All he needs is a clear, decisive and non-confrontational stance.

It's Time To Protect Taxpayers By Reforming The PSU Banks

Mail Today

8th January 2015

One of the key aspects of the 2014 elections was the unambiguous need for a change in the way governments dealt with public assets and money, after several years of brazen misuse of both. The expectation therefore was that the Narendra Modi government would, in its new economic architecture, start dealing with this issue. The Public Sector Banking (PSB) system is at the core of the issue and there have been repeated calls for reforms and clean-ups here. The PSB sector is screaming for change, and taxpayers are no longer interested in paying the bill for corruption. (Picture for representation) The PM's recent meetings with PSB management and the important announcements about limiting government interference and giving them autonomy shows that the government is responding.

Malaise In the past few years, the PSBs have mutely witnessed a systematic destruction of their balance sheets with an increase in Non-Performing Assets (NPA) and unchallenged debt restructuring leading to huge losses. NPAs in these banks have risen to epic proportions – in 2012-2013 they stood at Rs 1,55,890 crore; in 2013-2014 at Rs 2,04,249 crore; and currently at Rs 2,36,600 crore.

For years, these numbers were elucidated as results of a slow-down in the economy. The truth was that PSBs were used as literal piggy-banks for a select group of crony capitalists, topped with abject corruption. The recent arrest of a bank chairman accepting bribes for restructuring loans is evidence of a deep rot in the banking system.

Early on in this government, the Finance Minister, responding to my question in Parliament on December 2, 2014, stated that: “The Government is conscious of the need to restructure Public Sector Banks in India. Various options are being examined with a view to arrive at the most optimal solution which caters to the need for re-capitalisation as well as making banks more efficient”. This was a sharp contrast from the denials of the UPA government, who responded to a similar Parliamentary question in 2012 suggesting that rising NPAs “did not necessarily represent any systemic vulnerabilities”.

This new government was elected in with a clear decisive mandate for change. The PSB sector is one that is screaming for change, and taxpayers are no longer interested in paying the bills for incompetence or corruption in these banks. So what should be done to reform these banks?

First, PSB banks must be removed from under the ‘management’ of Ministry to Finance to a new structure where they are allowed to operate independently as board managed entities and are

protected against politically-directed lending. A holding company like Temasek of Singapore perhaps that would honour these PSBs as valuable public investments and competitive entities. Transparency The relationship between the government and PSBs becoming that of investor and investee; and where subsidies are routed through PSBs, such costs being recompensed to the PSBs from the government budget.

This would serve to create a fair regime for minority investors who are also owners of these banks.

Second, these banks must be managed more efficiently and transparently. The recent move of the government to change the selection process of Chairmen, Managing Directors (CMDs), and Executive Directors (EDs) of PSBs is encouraging. This step is certainly in the right direction, but this decision alone isn't enough to protect the taxpayers, whose hard-earned money is at the heart of all these banks.

The government needs to consider stronger mechanisms for installing an internal culture of transparency and accountability in the seemingly complex financial decisions taken by these banks. Cronies PSBs must become board-managed entities. Boards must be rid of cronies and politically connected fixers, who have haunted them for several years. The practice of the government appointing Chairmen and MDs must be replaced with boards and committees of boards screening and selecting them, like other corporate bodies.

Sabka Insurance, Sabka Vikas

Swarajya

14th March 2015

The Insurance Laws (Amendment) Bill, 2015 is the NDA Government's first significant piece of Economic legislation. It is as a reformist legislation that will positively impact insurance consumers of our country in particular and the economy in general. Bill is Pro consumer and Pro investment: At the heart of this legislation and the increase of FDI in insurance is one very person - the Indian citizen and insurance consumer.

India remains an underinsured country, under pensioned and underfunded on issues of social security – While averages and statistics that are trotted out usually may paint one picture, the reality is this – that at the bottom of our economic pyramid, large numbers of citizens are underinsured. Insurance penetration in India is at 3.9% is below the world average of 6.3%, as per the figures

in 2013 and is a very low 17th out of 62 nations. Compare this with, South Africa (15.4%) followed by South Korea (11.9%); the UK (11.5%); Japan (11.1%) and remember these are penetration adjusted for GDP! Over 800 millions of Indian are uninsured lives. Many more in health, livelihoods and assets remain uncovered by Insurance.

This low Insurance density needs to be urgently addressed and this can be only be done rapidly by more introducing more insurance companies and more Investment into the sector. More players means more investment and also more competition. More competition means lower prices for consumers and increased affordability. Competition and more competition through many companies is the only sustainable way for Indian consumers to get easy access to and affordable insurance. Why FDI and why not domestic sources is one of the questions posed by opponents to this bill? The question can be posed to all sectors that attract FDI today – telecom, infrastructure, services, airlines, and homes etc – Why FDI at all? FDI in Insurance is Good Economics & Politics It is that while our economy is a growth economy. Just like any other economy we have finite resources and these need to be prioritized. We need our domestic resources for areas where private capital will not go. Social sector, Poverty programs of the Government, Rural infrastructure etc.

If we can raise additional resources from external sources, it is good economics and politics to do so. Even a country like China economic playbook has FDI at its core. On the issue of opposition to FDI, it must be pointed out that foreign equity is in insurance and every other sector through the FII route anyway. FDI is actually better for the country's economy, since its more long term and creates tangible assets as opposed to FII which are speculative and short term in nature. It's a flawed and contradictory position and inconsistent with demands of today's consumers that want choice and competition as their right.

The dynamics of a well insured society are transformational. The dynamics of a well insured society are transformational. High insurance densities have huge impacts on societal well being, health, family standards of living one end of the spectrum of benefits – It also creates an economy of high savings rates, improved long term capital availability to the financial sector which in turn makes long term infrastructure financing easier etc. So catalyzing the insurance sector and regulating it well is good for consumer and the economy.

Budget 2015 has introduced into our economic architecture some new structural propositions that directly impact the poor and needy citizens of India. The Accident insurance, Pensions and insurance is first steps at creating a social security framework. 3 Every developed democracy has a social security net that ensures a targeted and sustainably funded model that backstops the poor and needy or temporarily out of work.

This legislation also further powers this architecture because it makes insurance more affordable by creating competition. There are some elements in the Bill that could have been avoided and/or improved – the Bill talks about Indian control. It could be misunderstood to imply that it creates two classes of investors – giving a certain group of Indian investors rights disproportionate to their holdings and perpetuates the 80s bhumi putra type differentiation. This is not contemporary thinking.

For a nation that needs to attract billions of dollars of investment into Make in India, Digital India, Defence, Infrastructure and services – creating economic differentiation between foreign and Indian investors is not a good idea and only perpetuates a culture of rent seeking amongst some Indian businessmen and corporate groups that have done it for several years. Also, the Bill misses a big opportunity to create a reinsurance hub and thousands of jobs associated with it in India.

With Dubai and Singapore fast emerging reinsurance hubs that are moving markets away from traditional Europe and North America, it seems that we have not thought this through. For reinsurance hub in India, the FDI limits will have to be higher. The Government and Finance Minister must commit that they will work to making Insurance PSUs even more competitive and strong. By re-architecting how they are managed and run. PSUs must be investment assets for the Government, but not by preserving their monopolies but by transforming them to market share leaders and world beaters, even as the insurance market grows. Countries like Singapore has shown how Government linked companies can perform well and that vision must be unveiled here as well.

The Insurance Laws (Amendment) Bill is pro-competition and pro-consumer. It is proinvestment and pro-economy, is a reformist legislation that will catalyze the insurance sector and the economy.

MUDRA Bank : A Vehicle For 10% GDP Growth

Business Standard

16th March 2015

The mandate that the Narendra Modi government was emphatically given in May 2014 by the people of India, was a mandate for change and a break from the status quo; change in our governance and politics, as well as a change in the economic architecture, growth and inclusion. While the Modi government's first Budget was a status-quoist, placeholder Budget, the Budget in 2015, the government's first full year Budget, is surely redrawing the economic architecture of the country.

The Indian economy is structured as a pyramid, with the rich and middle class as the top two layers of the pyramid and the bottom being the poor, which has been the political focus and the 'intended' recipient for several thousand crores of spending by successive governments. The spending on 'programmes' has

continued with little or no change, despite evidence of rampant corruption, leakage and an increasing culture of entitlement rather than enterprise that has taken root in our country.

It is this Budget that has started the process of restructuring and developing a more effective way of targeting these spends through its JAM (Jan Dhan-Aadhaar-Mobile) platform. For all these years, a big part of this economic pyramid has been ignored by the spend-and-forget strategy. This slice of our country's population, amounting to several hundred million jobs rooted in enterprise and hard work, is referred to as the non-corporate or informal sector.

For the purposes of this article, I will refer to it as the informal sector. The Economic Census Survey of 2012 revealed the scale and magnitude of what we have been ignoring for several decades. There are 57.7 million enterprises in India, and it generates employment for 460 million people, of which 262 million people are selfemployed. That this long ignored informal sector is a significant part of our economy is obvious from the following statistics. It accounts for 90 per cent of our non-agricultural workforce, 50 per cent of the gross domestic product (GDP) and 40 per cent of the nonfarm GDP. This informal GDP is almost completely out of the direct tax net and lacks any formal form of access to credit or risk capital to allow it to grow and join the mainstream economy. A recent Credit Suisse report stated: "Unlike in developed economies, where informality is a deliberate choice to avoid taxation or regulations, in India it is more structural, a reflection of the lack of development and limited government reach."

Reports have concluded that Indian GDP can be raised by almost 15 per cent if the informal sector data is incorporated in the GDP series. Yet, only 4 per cent have access to institutional credit, with loans between Rs 50,000 and Rs 10 lakh almost impossible, forcing

them to go to moneylenders. The non-corporate sector faces stiff competition from larger firms, and are further impeded by the lack of infrastructure and access to easy credit. They are often unable to procure adequate financial resources for the purchase of machinery, equipment or raw materials. Bringing in the informal sector into the formal has many advantages for both business and economy. It is precisely to address this large population of Indians that have been kept out of the economic radar for the last six decades that the Budget has proposed the Micro Units Development Refinance Agency (MUDRA) Bank, which will be set up with a corpus of Rs 20,000 crore and a credit guarantee corpus of Rs 3,000 crore to help microfinance firms to lend more.

The MUDRA Bank will boost loans and cut borrowing costs for the cash-starved domestic small businesses. It will create a framework that regulates and provides refinancing capital flows to micro-finance institutions that are in turn in the business of lending to micro/small business entities engaged in manufacturing, trading and services activities. This will create and expand the financial ecosystem that is a source of capital and finance to the unbanked and also reduce the cost of capital from the last-mile financiers to the micro/small enterprises, most of which are in the informal sector.

The 'change' to our economic architecture could be deep and transformational. It involves funding the unfunded, and unlocking the potential of a new pool of entrepreneurs and future taxpayers in this country. It is encouraging for entrepreneurship across the economic strata. It is using micro finance, an economic development tool whose objective is to assist the lower income groups to develop and grow their small businesses, many of whose owners are traditionally excluded communities such as Scheduled Castes, Scheduled Tribes or other Backward Classes, who own almost 60 per cent of all enterprises in this sector. It represents a real way to make the dreams of millions in the informal sector,

long neglected and ignored, a reality. This formalisation of the informal sector would expand the tax-GDP ratio and expand the number of taxpayers and, in turn, government revenues.

This government is right to see the potential of this sector to drive up jobs and taxes. It has realised the force multiplier impact on the economy and tax revenues by a successful formalisation of the informal sector. It has realised the failure of both the Reserve Bank of India and the banking system in credit-supporting this sector. This also is core to this new economic philosophy of supporting enterprise wherever there is a desire for that in our economy, while continuing with better targeted and well-conceived social security framework for the poor and needy. This also marks an end to the Manmohanomics corporate sector-driven growth era.

A Year Of Change, Hopes And Dreams

Asian Age

23rd May 2015

As parents wait, with trepidation, for their children's report cards, a similar process is underway in Delhi. There have been many report cards from 'experts' and analysts and incredibly even one 0/10 grading from a political leader known for his decade-long absence from anything meaningful! The decisive mandate of Elections 2014 was one for change and progress and that also meant huge expectations from this government for those who voted for Narendra Modi. For the millions of Indians who invested in the idea of change, there are many reasons to cheer. To those who are focussing on investments and economy, much has been done. The biggest change is in the tone and tempo of the government.

It has become more efficient and transparent in many areas. That the Modi government has focussed on administrative efficiency

and transparency is obvious. That he has led from the front and energetically is unambiguous, despite the burden of immense expectations and the weak economy, corrupted governance structure and shattered investor confidence that he inherited from the UPA. Twelve months have seen success in controlling inflation and reducing fiscal deficit along with almost all other performance indicators like GDP growth, current account deficit, export growth, investments etc. Scams and corruption that had horrified and disgusted Indians have been dealt with, and auctions becoming the only way to sell public assets like spectrum and coal. A more fundamental change is afoot, but not highlighted enough — citizens are becoming the main beneficiaries of government policy instead of only corporates or vested interests. Thus, surely and systematically dismantling the altar of crony capitalism that the UPA government had begun to worship at. Another fundamental change is causing global investors to return slowly, a reflection of confidence in a new, clean transparent business framework that is also focussing on ease of business.

There have been deep changes that have been kicked off — a serious of efforts to give subsidy benefits for the poor, using JAM, the triumvirate of Jan Dhan Yojna, Aadhar and Mobile, and Mudra Bank along with insurance and pensioning for the poor. Although the government is in office only for a year so far, there are a few people who are disappointed with the pace of change, including some in business community. There are deep emotions behind this. Many amongst those, who supported the Modi government, see a need for departure from the past 10 years and don't see the last one year as representing enough of that change. This is a no-win debate that perhaps serves to remind the Modi government about the depth of feeling and support behind the 2014 mandate. I for one, believe much has been done in the transformation process of the government, the economy and the country. Many decisions taken in these first 12 months will make their impact felt in the people's lives in coming months and years. But I also agree that much more needs to be done.

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Solving Non Performing Loans Crisis Is Key To Restarting The Investment Cycle

Hindustan Times

23rd June 2015

Despite the Economy having stabilised from Perilous days of 2014, one of the big legacies of the UPA govt – 3 Lac Crores of Non Performing Loans (NPLs) and the crippled Public banking system (PSBs) – is the biggest hurdle to FM Jaitley's efforts at restarting the investment cycle. NPLs are impacting the capacity of PSB balance sheets to provide further credit to the economy and the increasing risk aversion to further corporate credit.

PSBs alone account for more than 70% of India's loans. PSBs require around \$40 billion of fresh capital by 2018 to be in line with international capital rules. The NPLs of PSBs continue to steeply increase - in 2012-2013 they stood at Rs. 1,55,890 crore; in 2013-2014 at Rs. 2,04,249 crore ; and currently are Rs. 2,73,600 crores. CRISIL estimates that gross NPLs will rise by 20 per cent to Rs 4

lakh crore in fiscal year 2015-16. As a ratio to total assets, they will increase by about 20 basis points to 4.5 per cent. CRISIL also estimates that “weak” assets, which includes some restructured loans, will come in at Rs 5.3 lakh crore during the year, about 6% of total loans. These ballooning NPL numbers represent a clear and present danger, to the Governments vision to accelerate the economy and job creation through investments. The crux of the NPL problem is the inversion of liability in Banking in India – the larger the loans or political connection, the easier to default, the smaller the loans more difficult it is .

So resetting this is key. The Kingfisher Saga is a good example, with leading PSBs haplessly struggling to recover the Rs 7000 crores loans despite personal guarantees from the Billionaire promoter. Kingfisher is a good example of this inversion, result of decade long rot within our PSBs with promoters going scot-free and taxpayer funds repeatedly used to bail out Govt Banks, when it could be deployed elsewhere for public good. As Raghuram Rajan says “We need a change in mindset, where the willful or non-cooperative defaulter is not lionized as a captain of industry, but justly chastised as a freeloader on the hardworking people of this country” So here’s a 5 pronged approach to addressing NPLs decisively

1. PSBs must focus on monetising the business Asset rather than only pursuing a bad loan PSBs/Banks must be able to assume management control of defaulting companies swiftly and non-disruptively, even appointing management agencies - to run these companies along with their reconstituted board, while pursuing enforcement of collateral, guarantees and securities in event of defaults. PSBs and creditors should work to consolidating business assets and creating entities that can be then targets for M&As for foreign and domestic investors. E.g. Defaulting power projects to be put together by creditors and then offered to NTPC or other

private companies, clean of any disputes. Such M&As also offer foreign and domestic investors opportunities to invest in brown field businesses without the Greenfield startup risks about India that still intimidate many prospective big investors.

2. Stop NPA growth by Recognising Bad managements or loans early Stop practice of masking bad loans through regulatory forbearance, EverGreening or restructuring of corporate loans. This masking of NPLs, in turn hides a growing time bomb that eventually explodes on future taxpayers. In Governor Rajan's words "The fundamental lesson of every situation of banking stress in recent years across the world is to recognize and flag the problem loans quickly and deal with them. So regulatory forbearance, which is a euphemism for regulators collaborating with banks to hide problems and push them into the future, is a bad idea". Even schemes like the 5-25 scheme, that allows banks to extend debt on longlived projects for up to 25 years, with refinancing every five years, could be used for ever-greening.

3. Create a culture where borrowers/guarantors big or small, must repay their bank loans The PSBs are proxies for taxpayers and no borrower must be allowed to dodge the contracted liability. For Banks not to be piggy banks for the rich and powerful, a culture of enforcement of contractual obligations must prevail. For this, there's a need to review and improve the legal process of enforcing securities. Despite SAFRESI, the process for banks to enforce borrower's obligations in terms of 3 security and guarantee are expensive, exhausting and time consuming. As the KF case shows, borrowers simply try to outspend the PSB banks with lawyers and staying power till the lenders move on.

4. PSBs have to raise their capital from markets/investors and not taxpayers. PSBs have got used to the frequent capital bailouts by govt to make good for their losses. This is making the taxpayer liable for the corruption or mismanagement in these banks. The

current policy to selectively recapitalise banks should also be reviewed. This could incentivize weaker banks to hide or mask their problems to qualify them for this recapitalisation. PSBs must now go to the markets and raise their equity and capital. For that PSBs need to transform themselves and be more transparent, professional and equip themselves with good management and boards amongst other things. Investors would then step up to provide the capital the banks need to fund their growth and investment cycle.

5. Transform and Reform the PSBs – deep and decisive. As a recent article described it “Many of the troubles that afflict public-sector banks, including political interference, a lack of talent in the boardroom and the herd mentality that encourages them to charge into the same bad bets, stem from majority state ownership”. The KF example is proof - with almost the entire bad debt portfolio held only by PSBs. Some early reforms like separation of Chairman & Managing Director, revamping the selection process are a start. But if PSBs are to be successful and taxpayers to benefit, what is required is to end Government control (i.e. Political and directed lending).

While privatisation may not be politically practical, distancing the finance Ministry bureaucrats from PSBs is critical which I have been urging for long. In Budget 2015, Jaitley announced a Banking Board Bureau. This could be the first step towards a holding Company for Banks, another suggestion that I have been making for some time in Parliament. Such a holding company if Independent, can successfully distance Govt from PSBs, as Temasek has shown in Singapore. The limits on PSB pay scales must go, to attract talent at board level and below. Boards of PSBs have to be reconstituted - cleansed from the UPA practice of 4 loading them with conflicts of Interest and replace them with capable/independent directors, in turn making PSB boards responsible for their performance. NPLs

continue to increase in recent months. There will be the usual temptation to pick and choose a few big loans to resolve. There is significant moral hazard in this and should be avoided. More than clamour for lower Interest rates, success on restarting a deep sustainable investment cycle will be determined by how decisively Govt deals with NPLs. This cannot be solved around its edges. It needs to be taken on decisively or it will not be taken on at all. Crisis is always the time for change, the NPL crisis can trigger the right kind of change and get our economy going – to create investments and jobs which was the mandate of Elections 2014.

70 Years After Independence: We Have Failed, Our Poor Govt Must Initiate Systemic Policy Solutions To Address Poverty

Financial Express

9th July 2015

The Socio Economic Caste Census (SECC) report released last week has resulted in sobering realisations. The data underscores the fact that India has not made much progress in eradicating poverty: only 10% of rural Indians have salaried employment, over 35% of rural Indians are illiterate, over 51% still engage in casual manual labour, as little as 2.73% have registered enterprises, as high as 56% do not own any agricultural land and almost 30% of them depend on manual labour for their livelihood. Past assessments on India's poverty have also painted a similarly bleak account. While UPA Planning Commission pegged the number at 27.5% of the total population in 2007, the same year, the Arjun Sengupta Committee reported that as much as 77% of India's population lived below the poverty line.

In 2009, in a sort of repeat telecast of the same number quandary, the Tendulkar Committee reported that 41.8% of rural Indians, and 25% of urban Indians fell under the BPL category – while the NC Saxena report argued that the number of BPL citizens in rural India was a higher 50%. As is evident, even the most conservative estimates have made it unequivocally clear that several million Indians continue to live a life steeped in abject poverty and deprivation even after 68 years of Independence – a fact the latest SECC data has strongly reinforced.

The fact that a majority of our countrymen/women are still miserably trapped in the vicious cycle of poverty, illiteracy and unemployment is an indictment of the policies of the last sixty eight years and 11 big-money 5 year plans. Poverty alleviation and eradication was one of the primary mandates of the Congress's planned development approach, and evidently, the latter has been an outright failure.

The sops and entitlement driven social programs have to a large extent entrenched into the delivery mechanism corruption, leakages and lethargy – and has come at a very high cost with limited results - a form of Minimum Governance! In the light of the latest Census, and the current momentum shown by the year old Narendra Modi government, it is worth reviving the conversation around concrete and systemic policy solutions to address poverty.

Already, there are signs of a new approach introduced by the Government as part of its Maximum Governance – J-A-M, Mudra Bank, Make in India and Digital India are programs which use a combination of capital, enterprise, direct benefits/subsidies and job creation are designed to decisively and sustainably tackle poverty. It is clear that inter-ministerial, inter-department and inter-project coordination directly affect the extent of the success of Governance programs in the next decade.

This need for a coordinated approach between Government programs becomes evident when we examine the problems of the unorganized workforce. A cursory examination of SECC data is telling - according to its findings, only 2.73% rural households have a registered enterprise and out of that only 1.61% account for non-agricultural own enterprises.

This is directly connected with literacy, which equips their ability to participate in the formal workforce. The SECC reports that about 35% of rural India is illiterate, only 10% have salaried jobs and only 8 per cent households earn Rs 10,000 or more every month. 51.14% of rural India is actually engaged in casual manual labour to earn their bread and close to 56% of the rural population is landless. Manufacturing still accounts for less than one-fifth of both output and employment. With the Make in India program in full swing, and the forming of industrial corridors there is wide scope to boost manufacturing and increase its contribution to the GDP.

However to get the 51% of rural population presently engaged in manual causal labour to be absorbed into organized workforce it is important for these unskilled workers to be strategically and appropriately trained by the Skill India initiative so that they can participate in the opportunities created by Make in India. With the roll-out of Digital India, there is also an immense scope to apply technology for the purpose of poverty alleviation by improving the efficiency and impact of government run programs in sectors such as agriculture, healthcare and education among others. If implemented innovatively, the Digital India programme can do wonders in this regard and magnify the impact of these well intentioned interventions. Technology can transform the government-government and governmentcitizen interface, and ensure that these transactions are transparent, efficient, and accountable.

The Narendra Modi NDA Government was elected to an overwhelming mandate for change in the last General Election – and was handed an economy that was left crippled due to years of profligacy & poor governance. The tasks for this Government are therefore not easy. The problems can only be tackled by Maximum governance in action! The time has come to leave the dreary failed habits of the past UPA/Congress governments behind.- move beyond the rhetoric, slogans and poverty photo-ops to a more decisive, determined, outcome driven approach to eradicating poverty. This is a time for acting and executing.

It is about time that narrative about India's poverty sees a sea change – that the poor in India see a new set of solutions to transform their lives.

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The Cost Of Parliament Logjam Is Far Greater Than We Have Imagined

Hindustan Times

12th August 2015

Winston Churchill had once remarked that ‘the object of the Parliament is to substitute arguments for fisticuffs.’ The past three weeks of the monsoon session of the Indian Parliament has made it amply clear that some of our MPs prefer obstruction to reasoned argument. As an MP who spent most of my summer break sitting through the many meetings of the Select Committees of the Goods and Service Tax and Real Estate (Regulation and Development) Bills, this Parliament shutdown has been deeply frustrating. The total shutdown of Parliament by the Congress and its consequent impact on the passage of key bills is really another nail in the coffin, for a political party that has already lost its credibility and relevance. While the mainstream media has highlighted the cost of the ensuing Parliament logjam to the exchequer – with estimates ranging from 50 Crores to 100 crores, the bigger headline is the

impact and costs of this to the economy and therefore to the lives of millions of hardworking Indian citizens. The implementation of Goods and Service Tax Bill 2014 (GST Bill), a potential game changer for our economy, for one, has been completely jeopardized. The GST is the most significant indirect taxation reform since our country's Independence.

It is a transformative legislation that seeks to create one of the largest national common markets in the world. Experts suggest that the passage of the GST alone could push India's GDP by 1-2%. India's GDP in 2014 was 2066.9 billion USD, so hypothetically, going by the 2014 figures and not considering the growth forecasts of the current fiscal year, in absolute numbers, a 1% GDP growth would mean a growth of 20.6 billion dollars. Obstructing the GST bill does not have only political costs – the opportunity cost is not less than 20 billion dollars in this fiscal alone and this calculation does not even consider the growth forecast of 7.6%. This is the real and chilling math caused by the politics of obstruction and disruption that needs to be highlighted and discussed. To put this opportunity cost loss in perspective – 20 billion dollars or Rs. 1,40,000 Crores could purchase more than 2 million beds for our resource deficient public health sector. There are also other far reaching consequences to not passing key legislations at the right time. The GST, apart from being pro-consumer, also allows small and medium businesses to be more competitive.

As Europe melts down and China pulls through a painful economic reset, there is considerable focus on India among foreign Investors who are seeking an alternative investment destination. This window of opportunity is currently open and unfortunately the political risk perception caused by this kind of outrageous blocking of key legislation only serves to keep investors away. Added to all this is the very real fear that the GST will not meet its April 1, 2016 deadline – unravelling 9 full years of painful consensus building. This would mean a step back for the GST,

which only further raises concerns among Investors who are only beginning to flock to Make in India. Another crucial sector that has taken the beating due to the Parliament logjam is Real Estate. The Real Estate (Regulation and Development) Bill 2013 is a landmark legislation that would have revived the real estate sector by creating a legislative framework for the protection of the rights of the consumer. Despite the real estate sector being very well entrenched in this country, consumers have been fleeced and exploited by thousands of unscrupulous builders, with often results in arduous and expensive legal processes – the only recourse available to consumers. Some other key legislation that entail high social costs include the Road Safety Bill, and the Juvenile Justice Bill – both of which require detailed deliberations. A host of other crucially important issues that required debate were also victim to the logjam.

The terrorist attacks in Gurdaspur and Udhampur, the farmer suicides in Karnataka are fitting examples. Other unresolved concerns regarding individual privacy arising out of porn ban attempt by the Government, the deteriorating service quality of Telecom companies and Net neutrality also escaped scrutiny and debate. These are all issues that directly impact the economy, the quality of lives of citizens, and the functioning of businesses. They should have been discussed, debated and spotlighted.

What we got instead, day after day, was a show of irresponsible and unaccountable conduct of the worst kind. The nation and indeed a majority of MPs have been held hostage to this tactical obstruction. It is indeed unfortunate that after a very promising start, and an extremely productive Budget session – which saw Parliament at its 15 year best, this session has turned out in the manner that it has. Post the 13th, there is no doubt, a need for the Congress, and to some measure the Government, to introspect. There has to be a mutual agreement to abandon this kind of

obstructionism and evolve a framework of communication that allows for legitimate opposition and consensus building efforts on important issues that confront the nation and its people. There is no alternative to this, the country has to move forward and far beyond the politics that was displayed in this monsoon session.

Don't Politicise Educational Institutions – They Are Centres To Develop Our Next Generation Of Citizens And Leaders, And Not Centres Of Virulent Politics

Mail Today

27th February 2016

Much has been said on the Jawaharlal Nehru University (JNU) stand-off – a lot of politics has been stirred into the incident – making today almost unrecognizable from what it was originally. The incident has given Left and Congress opportunities to showcase their new-found sensitivity on a range of issues like Free Speech, Sedition, Nationalism etc. But how that squares up with the Left's long history of political violence and its infamous support to China's crackdown on students in Tiananmen Square, and Congress' stellar record on Free speech and liberty with Section 66A, Emergency etc., is probably something that they can answer. And for their recent opposition to Sedition, you had the last 10 years in Government and 5 decades before that to debate and repeal that law. And considering Congress UPA Government

has used Sedition law on multiple occasions, isn't this recent opposition to sedition a bit trite? This incident is a classic case of political opportunism. Students all over our great country have all their rights to free expression. Youth is the time to develop thought and dissent and make mistakes – even mistakes like toying with the ideology of Karl Marx and Lenin. No one in India should ever have any problems with students, regardless of what they believe in.

A few Marxist students in JNU or elsewhere espousing their deep belief in Marxism isn't unusual for that University and they can and must be left to revel and enjoy their brilliant isolation. Fetters on Free speech But our Constitution does place some fetters on the right to free speech, and so, there is a legitimate expectation of citizenship from all Indians, that you don't say things that violate those restrictions. The debate should be really about that – what are those fetters from our founding fathers and successive interpretations by the courts? What is unacceptable? Are students shouting for a breakup of India, and encouraging Violence against state acceptable free speech? This is what this discussion should be about.

Without prejudging these students' actions, I find it deeply offending that a National Institution like JNU was a venue for those offensive statements and slogans. On February 9, ugly slogans were heard on the JNU campus – “Bharat ki barbadi tak jung rahegi”, “Kashmir ko azaadi” and “Break up India”. Even now when I hear them, they leave me angry, as they did many others. I accept that making anyone angry is not a crime, but to my mind, they were antinational slogans. There seemed to be an attempt to incite the crowd and provoke it into unreasonable acts, including possibly violence.

Many, including former judges and many lawyers, feel that laws were being breached. At a time when the country is facing

significant threats to its security and wellbeing from many within and outside, I believe these statements are offensive to many and arguably inciteful. Let the courts decide. As much as it is the students' right to seek protection under law, it is the right of those offended to seek remedy under law. This is where it is – Let the courts decide. Let them decide what the fetters are under 19(2),(3),(4). What are acceptable restraints to speech? Can speech itself be seen as an act of violence - as is being seen in other places in the world where virulent propaganda and speech are often leading to violent actions and acts? Sir, let these be tested in the courts. I agree that India can and will always be a nation of many ideas and flowers and views that bloom – I disagree with the Left on almost everything, but on one thing we cannot have divergent ideas – that is about the Integrity and Sovereignty of our Nation.

Mohanlal, the Malayalam superstar, also wrote on this in a recent blog where he rightly asks a question that every Indian must ask “How can we live after the death of India”. And that is the crux of this case! I find the references to caste, income, political affiliation background of the accused, distasteful and smacking of political opportunism. Our country's legal system is built on a backbone of principle of legal equality. All are equal in front of law! A student's political affiliation cannot exempt him or her from the rule of law as much as you try and spin it as state vs individual. So let the law be tested and let's not drag backgrounds into this. If you are a student with strong views, let them be tested for what they are, and not hide behind caste or religion to stall that test. Heroes are those who protect you from Terrorists, not those who celebrate those who terrorise and kill innocents .

While the Left's need for heroes in a world where Marxism is becoming irrelevant is understandable, it's a bit silly to call these students 'Heroes'. At best, they are misled motor-mouths, not dissimilar from others in other parts of our political spectrum.

Heroes are those who make some significant achievements in life and contributions to the country they live in. Heroes are those who protect you from Terrorists, and not those who celebrate those who terrorise and kill innocents. Making pathetic slogans to breakup India, Bharat ki Barbaadi, celebrating convicted Terrorists responsible for deaths of innocents hardly qualifies as a Hero for most of us. Maybe the Left has different standards, given its long history of using violence in Politics in Kerala and West Bengal, but for most of India, they are just gasbags who may have broken laws and whose guilt or innocence will be determined by Indian Law and due process – just as those lawyer hooligans who claim to be nationalists. I say this - let the law take its course. Let the students be given a fair opportunity under Indian law to maintain their innocence, as the State makes its case as well. That is where we should leave this. Let's not take politics into the Educational institutions. Let them be what they are supposed to be – as centres to develop our next generation of citizens and leaders, and not centres of virulent politics.

NPAs – A Rs.4 Lakh Crore Hole Which Leaves Each Taxpayer Poorer By Rs.1 Lakh

Hindu Business Line

5th March 2016

I first started creating a noise in Parliament about rising Non-Performing Assets (NPAs) of Public Sector Banks (PSBs) in 2010 – six years ago. The Gross NPAs then, stood at Rs.54,179 crores. This number has now ballooned to about Rs.4.04 lakh crores, close to an eight-fold jump from the December 2009 numbers. This gift given to us by the UPA is the single biggest reason for the drag and impairment of our economy. Given that these are all in Taxpayerowned banks, it effectively makes each taxpayer liable by Rs.1.14 lakhs, if these banks are to be bailed out. The Mid-Year Economic Analysis and the Quarter-end results of PSBs show that 9 PSBs have made combined losses of a staggering Rs.11,251 crores.

The total bad debts of PSBs have risen from Rs.5,551 crores in FY 2012 to Rs.52,542 crore in FY 2015. Additionally, stocks of all major PSBs have fallen between 40-60% over the past one year. Out of the 24 listed government banks, 20 stocks now quote at less than their official book value. This deterioration has put a spade on any attempts towards disinvestment and share sell-off due to the falling stock prices of these PSBs.

The losses incurred by the PSBs and their inability to provide credit is hampering the sustainable growth of our economy and employment creation. The recently released Economic Survey stated that one of the most critical short term challenges confronting the Indian economy is the twin balance sheet problem – the impaired financial positions of PSBs and some corporate houses. This twin balance sheet challenge acts as a major impediment to private investment and a full-fledged economic recovery. The Survey, in fact, attributes the sluggish growth of the economy to the unwillingness of banks to lend credit on account of rising NPAs, and more attractive interest rates for borrowers in the bond markets.

I have been repeatedly raising concern regarding the deteriorating financial health of PSBs, NPAs and Re-Capitalization, and concentration of risk so many times since 2010, that I am no longer popular amongst many in the corporate world. I have urged since then successive FMs to take remedial measures to arrest the decline in financial performance of the banks, reduce concentration of risk and take action against defaulting promoters. In the last three financial years, a total of Rs.1.14 lakh crores worth of bad loans were written off by 29 PSBs, which is more than what they had written off in the last nine years.

These write-offs point to the rot in PSBs. Majority of this money is owed by flashy billionaires whose philosophy seems to be - “It is not in our principle to pay interest, nor is it in our interest to

pay the principal.” This is a rot that has been developed in the last decade of government-mandated lending and crony capitalism. One of the most important and crucial takeaways from Budget 2016 is the way the NDA government is tackling the massive problems of NPAs, a legacy of the UPA government, which has left a gaping hole of about Rs.4 lakh crores.

It is a great demonstration of how problems should be solved. The government has, in this Budget, not just blandly committed to providing Rs.25,000 crores for recapitalisation of banks, but has also taken on structural changes like the announcement of Banks Board Bureau; expediting the implementation of the Indradhanush plan; addressing structural issues in stressed sectors like Power, Coal, Highways, Sugar and Steel; proposing to make an amendment in the SARFAESI and bringing the Insolvency bill which was a long pending demand.

This resonates with what I had said in my Budget Speech of 2014-15 in Parliament regarding the capitalization of PSBs - that Capitalization must be accompanied with significant restructuring and reorganizing of these banks and how they are managed, especially in areas of risk and credit assessment. The revival of PSB banking system is critical to sustainably growing our economy, especially given its important role in servicing underbanked sectors of our population, and hence, the following structural banking sector reforms - which I have been advocating for since a long time are required urgently.

These are also consistent with the Economic Survey's 4R solution set of Recognition, Recapitalization, Resolution and Reform.

1. Speeding-up the implementation of the reforms proposed by Indradhanush Plan for Revamp of Public Sector Banks: The government can start by speeding up the implementation of the 'Indradhanush Plan' that was released in August 2014, which echoes what I have been saying. The document rightly called for a seven-pronged strategy to revive PSBs, covering a comprehensive

range of issues such as appointments, Banks Board Bureau, capitalisation, de-stressing PSBs, empowerment, framework of accountability and governance reforms. There should be a timeline by which the government must implement the recommendations of Indradhanush. The Government has taken a step in this direction by announcing the formation of Banks Board Bureau and appointing Mr. Vinod Rai as its Chairman.

2. The Government needs to ensure the passage of the Bankruptcy Code Bill in this session, as has been announced by the Finance Minister, so that banks are given sufficient power to get their money back without being trapped in judicial processes, which many willful defaulters hide behind. This would also allow sick companies a way out which currently is extremely difficult. The Economic Survey points out that the 'Impeded exit has substantial fiscal, economic, and political costs'.

3. There is a need to create a Public ARC which will allow banks to focus on lending, rather than recovery of stressed assets. Consolidation of Bad Loans can simplify resolutions. It has been seen that consortiums currently make things complicated. A Public ARC made by political will and backing and with the support of RBI can lead to faster resolution of NPAs.

4. Fourth, the Government must review and reform the legal process of enforcing securities. As I had written in the past, despite the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act (SARFAESI), the process by which banks enforce the borrower's obligations in terms of security and guarantee is expensive, exhausting and time-consuming. The issue of NPAs is a very serious issue as it involves the hard earned money of our innocent taxpayers, who are the real owners of these PSBs.

The tax-payers are the ones who are left holding the bill of this mismanagement. Amongst other things, the Banking regulator needs to answer these taxpayers who was asleep at the wheel and allowed this train wreck to happen.

Aadhaar Bill – Let There Be A Proper Debate

Hindustan Times

7th March 2016

After over 6 years and thousands of crores of public money spent without any scrutiny, Aadhaar is finally being brought into Parliament to be debated. Like many other things that UPA has left behind, this one too is being repaired from its original unusable form into one that can be used by the NDA Government. Rightly, this new Bill is called the Aadhaar Bill, rather than UPA's grandiose and totally inappropriate National ID Bill.

For all its claims - Aadhaar can't even differentiate between citizens and non-citizens. As Arun Jaitely said, Aadhaar cannot and will not be used for Citizenship or domicile Identification, but only as part of a broad Benefits and subsidy Delivery system, of which Aadhaar provides the limited biometric identity verification piece. Why has thousands of crores only given us this limited use? To

understand this, Aadhaar limitations needs to be understood. It is a database that only contains three pieces of information - Name, Age and Address. It is not possible for any Government to use only Name, Age and Address as a way to better deliver subsidies. This is strange because the idea of directing subsidies is that Government is able to identify those who are eligible and those who aren't, and I would think that, at a fundamental level, only citizens would be eligible for these benefits.

So it's obvious to even a lay person, that Aadhaar can only be effective if used with another database or platform that actually performs the function of Identification and Targeting by having details of the person being targeted. That's why Narendra Modi's Government has had to retrofit Aadhaar into the JAM trinity in its determined effort to better target subsidies., i.e., Aadhaar cannot do any targeting or subsidy delivery without the BPL or Jan Dhan Yojana (JDY) Databases – the JDY/BPL databases providing the Targeting and identification, and the Aadhaar database doing only the Identity verification.

So now that we have a way to use Aadhaar, let's get to the introduced Bill. The newly inserted Chapter III is an effort to make this a money bill. I have no problem with Aadhaar being a money bill, subject to changes in Clause 7, where words like 'may' have to be replaced with 'Only' if it's to be treated as a money bill. The word 'may' implies that it is not just for benefits and subsidies, as implied by it being a money bill, but can be used in other ways. So if the Government wants this to be a money bill, then it will have to make that choice of shutting the loopholes.

The Bill is, of course, a cut-and-paste job on the original UPA bill, and that's obvious. But the problem with cut-and-paste legislation is that contradictions will surface in places in the Bill. Take clause 4(3), which says Aadhaar can be used as Identity for any purpose. That contradicts Clause 7 and narrative around the

Bill, that Aadhaar will be used only for delivering benefits and subsidies – which in turn, is a justification to bypass Rajya Sabha as a money bill. The whole issue of Privacy and obligations that must be cast on the Aadhaar, is absent. The Bill is also silent about the thousands of fake entries that have already been detected in the Aadhaar database.

The ‘Offences and Penalties’ in Chapter VII are almost the same as the previous UPA Bill without addressing the institutional obligations to the enrollee in matters of Data security, Integrity and Privacy. It can’t be the government’s case that enrollees start suing individual officers of Aadhaar. The Bill still doesn’t address the issue of Citizens vs Residents. It would seem a contradiction if Aadhaar is to be used to deliver subsidies and benefits (which are only rights of citizens), but can’t figure out who a citizen is or not. Issues like Privacy and Security are significant issues even when it comes to underprivileged and those at the bottom of the economic pyramid.

I can see this Bill passing only if there are significant amendments to address these fundamental issues, some of which, like Privacy, are being agitated in the Supreme Court by various petitioners including me. The Bill is also weak on the definition of the Subsidy delivery architecture. Since Aadhaar cannot deliver anything on its own, the need for more specific targeting databases like BPL and JDY means that in future, these independent pieces of Data will have to merge into one composite Social Sector Registry or Database. Whether these independent databases also need legal regulation at this stage on issues of privacy and security through this law, is another question that needs to be debated and pondered.

This move of the Narendra Modi Government to debate and discuss Aadhaar and the future of subsidy and benefits delivery is much needed and a welcome step. Many had urged for a debate and discourse on Aadhaar for several years, and the response so far has always been it’s the executive’s right.

To those in UPA who were crowing about NDA Government borrowing their 'schemes', this debate should help explain how badly flawed their ideas were and how much effort is required to make those thousands of crores spent still relevant and work for the benefit of those who need it. This Government is clearly determined to reform public subsidy spending and make it more effective by directing it better and more accurately.

In its haste to do this, they should not pass flawed legislation. Recent contemporary History of IT Act and Section 66A is proof that flawed legislation causes more problems than it solves. With this legislation, Aadhaar must now move from the world of spin and hype to being a real, legally backed Identity verification platform working as part of the Subsidy Delivery JAM platform whilst addressing Enrolees/Citizen issues of Privacy, Security and Data Integrity.

Digital India

1

12 Years Of The Internet In India

Deccan Herald

9th July 2007

For most of us who have lived through and been participants, the last decade and a half in India have been truly transformational. The transformation has been dramatic and has touched everything and everybody - Enterprise, Consumer, Government, Citizen, Rich, Poor.

One of the truly fascinating transformations has been in the entire space of Telecommunications – mobile Telephony and the Internet. It has more than any other single thing transformed hugely and further had a direct effect on transforming and significantly impacting almost everything and everybody in this country in some way or the other.

In 1991 when I returned to India from the US, the Internet collaborative phenomenon was well developed and established

in the US – albeit as Arpanet, Usenet and other Information and email networks binding Enterprises, Universities etc. I remember vividly almost going through withdrawal symptoms like emotions when I found myself without having any net access in the early 1990s. Getting the net involved cumbersome procedures and costs implications that in itself were disincentives to anyone who harboured thoughts of connecting to the Usenet.

It was VSNL and Mr BK Syngal as its CMD that brought the internet to India and that whole new world of ‘Leased Line connectivity’ to IT companies – that laid the basic pipes that allowed IT companies to start exploring models outside the traditional body-shopping that was then the only way to operate. The out of the box and can-do approach of Mr Syngal and VSNL team of that time deserves far more recognition than they have been accorded in the History of Indian Telecom and IT development.

The connectivity phenomenon assured by Telecom industry and the Access to World and Global Information ensured by the Internet phenomenon has changed our country.

One must realize that pre 1994 in a lot of ways, India was a nation where knowledge and capital were the purview of the few who had the opportunity to travel and experience other markets and trends outside. The Internet has changed all that. The knowledge society and all its elements is available to anyone who has the interest in looking for it today.

India has been a democracy for the last 60 years, but it has been a real knowledge democracy in the sense of having more of its citizens gaining access to knowledge only in the last decade or so. The Internet has enabled consumers to demand more from his Provider of products and services, It has enabled Citizens to ask about his government and communicate with it and vice versa. Applications and companies like Google have completely changed

the way we use the Net. Googling for information or Data has made the life of a Professional, Citizen, Consumer of whoever sits on the net here in India much easier and more efficient.

In a lot of ways the story of the Telecom connectivity and Internet in India is one of transforming India and being a catalyst of growth and efficiency and in the words of Tom Friedman and Nandan Nilekeni, it has made the World Flat.

2

TRAI Beware!

Hindustan Times

2009

The recent CBI raids in DoT and the raging controversy about Cellular licenses being given off at less than market rates for spectrum, have brought the conduct of DoT and TRAI back under the spotlight. For a country that has pretensions to economic superpowerdom, and more specifically, that has an economic strategy that significantly depends on foreign investment flows, the inability or reluctance of the DoT/TRAI to handle a simple process of awarding telecom licenses transparently should worry all of us!!

The two main protagonists in this tragi-comedy (DoT/TRAI) have by now developed a perfect track record 'doublespeak'. Phrases like consumer benefit, common man, competition when emanating from them take on an ominous meaning! It is not the first time

that the TRAI and DoT (seemingly acting in concert – when the opposite should be true) have used the common man and his benefit to role out scams, while we sit around mutely.

Take the recent initiative by the TRAI – on 16th October, it initiated a public consultation to ‘facilitate easier consolidation and M&As in the Telecom sector’. In fact, the language in the consultation paper already points towards a decision of allowing M&As across the board in telecom, and the questions are framed to extract responses which will facilitate a decision favoring mergers and acquisitions and therefore reduce the number of telecom operators.

This would seem harmless enough, except that this move by the TRAI is in sharp contrast to everything that the DoT has said over the last 2 years while defending themselves against the allocation of spectrum to 120 LoI holders at 2001 prices on 10th January 2008. the Minister Telecom was defending his decisions on First Come, First Serve and license awards at 2001 prices – by saying that this will introduce competition and lower prices – an important public policy objective given the widespread evidence of cartelization and price fixing amongst existing operators and evidence of high ebidta and profitability margins – all signs of inadequate competition in the sector. As a matter of a fact, in response to one of my questions, he wrote to me “viewing the present teledensity of 25%, there are ample opportunities available to new telecom licensees”! In multiple press releases, the Department of Telecom has justified the decision to give away these LoIs as late as 19th October 2007, and 10th January 2008. The TRAI decision for no cap (increasing competition) was the reason behind its decision.

The DoT/TRAI tandem has worked well (for certain vested interests) before as well. ie of the infamous WLL scam that morphed into the current First-come, First-serve UASL telecom policy of 2004, the other infamous International Long distance Grey market scam and the more recent spectrum giveaways. Given the losses that the

exchequer has suffered out of all this, it seems surprising that there was never any enquiry or CBI investigations into the DoT/TRAI conduct in all this. It also seems that the combination continues to work well even now! The current plan seems to be this and this is how I predict it will play out if we leave it to DoT/TRAI.

1. A set of companies get spectrum and telecom licenses from the DoT at Rs 1600 Crores. The market value for this spectrum and licenses is much more (between Rs 4000 to 9000 Crores depending on the market transactions of Unitech, Swan, Datacom and reserve price for 3G Licenses).

2. The DoT had insisted (to deflect criticism about the rampant giveaway of spectrum) that there was a lock-in period and promoters couldn't sell the licenses and were obliged to rollout and build-out their business over the coming few years

3. As if on cue, the TRAI comes along with a consultation paper (to be soon followed by one more recommendation I am sure!) that will do-away with the restriction on sale of license and allow 'consolidation and M&As'.

4. That leaves all the new licensees in a interesting situation – they have licenses worth far more than what they paid for it, they have no need to rollout or invest further and they can sell their licenses (TRAI refers to this as consolidation) and make a lot of money for doing nothing other than getting licenses cheap from the government.

5. And where does that leave the government and people for whom these new licenses represented affordability and competition – basically nowhere, the government loses all the money from the spectrum and the people will see the market go back to the same structure as before (and hence prices) because of the best efforts of the TRAI/DoT duo again.

6. So the net benefit of this elaborate process would be – a few companies, promoters with windfall gains and their ‘well wishers’ in the DoT and TRAI.

That’s the scenario if the TRAI continues down the path it has signaled on 16th October. But the TRAI should be careful this and I would caution it against going down this road. If this occurs, then not only will it be a U-turn on policy, but also a clear indication that DoT/TRAI is simply helping/aiding these new companies and their promoters get windfall gains from sale of their licenses / promoters’ equity.

However if the TRAI is serious about remaining consistent with the objectives of increased competition, consumer benefit and also creating a healthy, transparent consolidation roadmap for the sector , then here’s what they should be doing –

a. Make real consumer benefit from the core principle of all its recommendations

Make sure that no part of their recommendations impact adversely (even minimally) the basic principle of Consumer benefit and protection of consumer interest. The Regulators role is NOT to maximize investor and promoter returns. TRAI must intervene in cases of tariff cartelization and not rely on forbearance as an excuse to abrogate its role in tariff reduction.

b. Ensure that Consolidations if permitted still leaves at least 9 to 10 operators per market

Given the size of the Indian market (800 million -1 billion by 2015), each of the 10 operators will have significant size and scale of almost 100 million each- which would put all 10 amongst the largest in the world.

c. Windfall taxation on all sale of new licenses/spectrum

If any of the new licensees are going to sell their licenses, the profits

on the sale must be taxed at a special tax rate – a kind of windfall tax. Since these licenses were obtained cheaply and without auctions for spectrum (and potential revenue to Government) in the name of consumer interest, if the same operator was going to exit the business without rolling out and creating a substantial business then it is only appropriate that the profits accruing should be to the account of the Government and not the operator/investor alone.

The TRAI needs to be careful. Its recent conduct and actions have increasingly perverted and distorted the very reason for its existence and role. It has demonstrated neither the independence nor the capability to stand up and do the right thing. TRAI should be careful and not allow its recommendations to become fig leaf for vested interests and operators.

3

16 Years Of Telecom Sector Reforms The Good, The Bad And The Ugly

India Today

1st December 2011

For the last several months, the issue of Spectrum and telecom licenses have dominated the discourse in Politics and media – and spectrum has become a symbol of Corruption, nepotism, and of businessmen creating wealth through the active collaboration of crooked Government ministers and officials. Ironic, of course, given that spectrum, and indeed the telecom revolution that has been made possible by this wireless spectrum – is one of the most important and visible aspects of a changed India and its citizens.

For the most part, an average citizen will agree that the telecom revolution has been a major success from the citizens' point of view. The sector has delivered much for the citizens, public policy objectives in general, India's reputation as an investment destination and helped India gain global recognition as the IT/ITeS

back office of the world. There are, however, millions of citizens who remain yet untouched by telecom reforms. It's been a mixed scorecard. Here is the good, the bad and the ugly.

Imagine just 15 years ago, only one out of every hundred citizens had a landline phone and approximately one out of every thousand rural Indians could access a phone line. From where we sit today, it would seem like the back of beyond. Few of today's young generation have even experienced this telecom deprived past of ours.

When the sector was opened up and wireless spectrum allocated to private sector entrepreneurs, it was on the back of perhaps one of the most enlightened, fearless and unusually open acceptances of the government's failure to deliver on public policy objectives where telecom is concerned; the National Telecom Policy 1994 laid it out bare that the reason for opening up the sector was lack of public finance and investments.

Once that barrier was crossed, it was easy to drive far-reaching reforms. No wonder then that the sector was open to competition and investments from the private sector in mobile telephony through a duopoly regime and in fixed line with an additional private sector operator. This came on the backdrop of equipment manufacturing – which had already been opened to private investment, including foreign direct investment (FDI).

The grand opening, however, was met with stiff resistance from consumers who were simply unwilling to pay sky high rates to make mobile calls. That, coupled with handsets in the range of Rs.30,000-50,000, made the takeoff seriously flawed. Just then, the government changed and the NDA came to power. The new government took one of the toughest decisions when it migrated the entire loss-incurring sector on a voluntary basis through a migration package, from a license fee to a revenue share regime. In

turn, it broke the duopoly protection and sought the withdrawal of all litigation. This move, perhaps even more than the opening of the sector in 1994, was a turning point. India saw, over the next decade, some of the lowest tariffs for mobile telephony in the world with nearly 600 million active mobile users accounting for approximately 50% of rural teledensity. Rural India, which houses nearly 70% of the population, also saw approximately 250 million subscribers with access to mobile phones. At a citizens' level, nearly half the nation had their own mobile device – which is no mean feat. At another level, without much government help, a state-of-the-art data network was being built that became the backbone, which in turn helped move global IT contracts, BPOs and ITeS businesses to India. This aspect of the mobile telephony revolution is written about much less since it is not something that the citizens or the media touch and feel on a daily basis.

However, it is amongst the factors that drove the success of the IT sector, which in turn gave India its global recognition as a robust, trustworthy telecommunication infrastructure – mostly landline – driving billions of gigabits of data and voice between India and international locations around the world. India's telecom network also became an alternative to its beleaguered physical infrastructure led by bad roads, 70's-style airports, and other drawbacks. Global investors, like Indian citizens, started using telecom infrastructure to transfer information and get access in absence of physical infrastructure. Telecommunications also accounts for approximately 8% of FDI – perhaps the single largest source amongst all. This has been more than matched by private capital over the last decade and a half. All in all, an amazing story of success.

And as is the case with so many things in India, there is the ugly side of spectrum and telecommunications...the one that has invited charges of corruption, nepotism and pseudo capitalism. It is clear

that the government has not been inclined to think through or plan on how to allocate spectrum – a scarce and precious national resource which is the lifeline of India's telecommunications growth. Imagine adding to a population without any plans from where sufficient oxygen will be provided to those who need to breathe!

The ugliest side of telecom has been the ability of successive ministers and bureaucrats to use massive discretionary powers to both stall and act at will, using flimsy consumer interest arguments on one hand and coalition pressure on the other, to force the government to take decisions that, quite apart from a revenue loss, shatters investor confidence and ultimately results in what is perhaps independent India's largest white collar crime – the 2G spectrum scam. To cap this depressing situation, is the complete failure of TRAI – the independent regulator which was created to precisely guard against this kind of political and bureaucratic mischief with licenses and spectrum. TRAI has long since become just another post retirement grazing ground for compliant bureaucrats. Overall, it is the unfettered and unchallenged discretionary power that is opaque and concentrated in a few hands, which is the cause of all recent scandals relating to spectrum in the Telecom sector.

Amongst the public policy objectives that have still not been delivered is getting a mobile phone in the hands of every citizen. Today - 15 years after reforms began - nearly half a billion population – almost entirely rural – still don't have access to their own mobile phone. Worse still, the subscriber climb during 2011 shows that the pace at which this last half a billion will access mobile phones is far slower than those who received connectivity in the last 4 years. Mobile tariffs, along with international long distance tariffs, have started to move up. The level of competition will certainly come down, but most worryingly, the investor sentiment is rock bottom. FDI was down by 35% between 2010 and 2011. Private

capital and almost all other parameters indicating the health of the telecom industry are on the decline. The sector is bogged down with controversy.

While it is not easy to fix the sector, it certainly holds out the best hope to restore investor confidence. If the government can structure exit policies without compromising exchequer revenue, plan harsh penalties for those who took the sector for a ride and played with the future of citizens, and reorganize the market structure to ensure additional large scale domestic and foreign investments in existing and new ventures, but without fabricating stories of public interest – there is a chance that the telecommunications industry can be back on its feet by the second quarter of FY 2012-13.

Any attempt to pass this off as ‘corporate rivalry’ or bail licensees out without appropriate penalties would lead to further chaos and another year could be washed away - just as 2011. For the sake of India’s citizens, restoring India’s rightful place in the global investment scenario, to continue to build state-of-the-art networks to support the IT sector and, most importantly, to make sure that millions of our youth continue to get jobs in the telecom and IT sector, the government needs to accept its mistakes, put a settlement plan out in the open, show that it means business, take stakeholders into confidence, strike reconciliatory deals and move forward without any hint of nepotism, favouritism or opaque conduct. Let’s ring in the new in 2012.

4

SC Judgement Shows India Ready To Battle Crony Capitalism

Business Standard

4th February 2012

The telecom sector through its entire history, spanning the last decade and a half, has seen many dubious policy and administrative decisions, and consequently, many ups and downs. However, through this whole period, there has been never a moment like 2nd February 2012. Because for the first time ever, the Supreme Court with its judgement has signalled that the days of illegalities and dubious decisions in Telecom are over.

That is precisely why this judgement is a landmark judgment. In a nutshell, all the scams and corruption that have plagued the telecom sector and investors - that have its roots in a dysfunctional and ineffective regulator, TRAI and an out-of-control Department of Telecommunication bureaucracy - are taken head on in this judgement. This judgment signals that the sector is finally only

open to those investors and stakeholders who wish to invest, build and succeed by following the laid down rules and laws.

For starters, the Supreme court has determined that the process used to issue 122 cellular licenses were in violation of laws, including the TRAI Act, and therefore, agreed with the petitioner that such licenses were illegal and should be cancelled, spectrum be taken back and re-auctioned within a four month period after recommendations are received from the TRAI. The spectrum in question is approximately 530 MHz or an average of 24 MHz per circle (some of it is still with the government).

This is the first time that there has been such a detailed judicial scrutiny of the license issuing process. This scrutiny and the judgment establishes the unambiguous basis for the governments today and in future for licenses – i.e., auctions or market-based mechanism. This should have been a common sense solution for those in charge of public policy formulation in Government, and in absence of such common sense, the Courts have stepped in.

Looking ahead, this judgment clarifies many policy confusions sought to be created and also lays down the mammoth task of cleaning up and reorganizing the sector over the next year or so. First, all spectrum in future will have to be auctioned. The excuse about public interest to circumvent auctions is no longer acceptable. Affordable tariffs will have to be guaranteed through vibrant competition and an alert regulator. Second, ministers trying to work with legal opinions - without the consent of the Cabinet and in violation of the Transaction of Business Rules 1961 - are liable for serious indictment as the CAG becomes active and the citizenry becomes enlightened on corruption issues.

Finally, all scarce national resources have significant commercial value and any attempt to give it away without market pricing results in a loss to the exchequer.

The auction design and timing will both be crucial to ensuring government revenues. The government needs to carefully think through how much spectrum to auction to each entity. Should it be 5 MHz to attract five new bidders or should it be 5 MHz for existing operators into three slots and perhaps two new slots of 10 MHz each, where only new bidders are allowed to bid so as to keep the level of competition robust?

The TRAI, which has been at the receiving end of massive criticism in this judgment, needs to be rebuilt. Its credibility around its Independence and also its regulatory capacity has been seriously questioned. I have repeatedly drawn attention to the almost total capitulation of the TRAI at various stages to political pressure, and worse still, its track record of compromised and questionable regulations and recommendations starting with the infamous October 2003 recommendations that first bypassed bidding. The TRAI needs rebuilding – its recommendations need to be direct, clear and less convoluted. It needs to intervene when DoT doesn't follow its recommendations or violates the TRAI Act in terms of the process.

The rebidding of these licenses has to be carefully planned by the TRAI and is an opportunity for it to redeem itself. TRAI needs to work independently and take sufficient time to give out recommendations that follow detailed consultations with crucial pieces such as reserve price based on a defensible benchmark, a timing that allows for serious global bidding, competition model that ensures that big private companies do not consolidate market power in current context, and spectrum slots that allow for both voice and data to blossom, rather than fragment it in the manner that DoT attempted in recent times.

When should the bidding occur? In my opinion, four months is way too soon. The government needs to approach the court to seek additional time. A proper global bid can only occur if sufficient

time is given to global investors to form joint ventures, have in front of them a M&A policy (through which they can acquire subscribers), and then invite bids. This will ensure a proper market price. Instead, if this spectrum is re-bid amongst existing operators, who will pay nothing more than the bare minimum benchmark price, it will totally distort the competitive landscape which is the only sustainable way to ensure affordability for consumers.

Before this occurs, the government will need to plan how to handle demands of some of the companies that have become unintended victims of this scam. Those who have been accused of corruption or have sold spectrum at significant values will probably find it difficult to get license fees back from the government. Others may be able to get some refunds. Then there is the question of refunding their infrastructure costs. It would seem that the government will need to refund between Rs. 7,000 to Rs. 15,000 crores (infrastructure costs included) to start the bidding process in which they could recover a lot more. Unless this settlement occurs in a transparent manner, it would either reek of a scam or lead to massive litigation where such companies could sue the government for damages.

In essence, the government needs to take measured and deliberate steps at this stage.

The task from here onwards is mammoth, requires great character, transparency, and above all, a divorce from unnecessary political posturing and spin. Going forward, this is the opportunity to put this inglorious chapter in the history of Telecom and our country behind us and move ahead in a far more robust way on the back of some real policy action on part of the Political leadership.

If we find the right people who have these characteristics but also a deep understanding of the sector and economics, there may be light at the end of the tunnel. India is at a very unusual stage. It cannot borrow from any international precedents; it will have to

charter its own way. Unfortunately, because of the recent scams and the tolerance of these illegal actions by the Government and the Cabinet, we are not just at crossroads, but at a road less travelled.

This landmark judgment of the Supreme Court gives out a clear signal that India is getting ready to battle crony capitalism alongside the anti-corruption movement. Equally that regardless of political status or financial muscle, the law will catch up with you. I hope the political leadership sees this as a start of the process of reconstruction in a sector where both investor confidence and public policy objectives have been hit hard since 2008.

5

Replace The IT Rules

Times of India

11th February 2012

The 2G auction recommendation made by the TRAI has generated loud and angry reactions from the telecom industry. Expectedly we saw sights of the big guns of the Telecom sector rushing to the Minister for secret confabulations. It also has had the effect of erstwhile arch-rivals rubbing shoulders and uniting to take on the Regulator.

New entrants such as Uninor and Datacom are aligning with traditional adversaries such as Airtel, Idea, Vodafone and Aircel on one hand, while GSM operators are finding themselves in a conveniently co-located position at least on issues of reserve price with their till-recent arch rivals, the dual technology operators.

The government, for the first time, and rightly, has kept a studied silence on the issue. The Telecom Commission has sent a set of

questions back to the TRAI. In the meantime, the industry continues to make loud noises about how a high reserve price, coupled with artificial scarcity of spectrum, would harm consumer interest and end up raising tariffs. Essentially, the industry is fighting this battle with consumer in the front. As always, the Indian consumer remains faceless and, unrepresented in this debate.

India's telecom sector has been riddled with allegations of secret deals and compromises. Whether it was the delay in ushering in a migration package in 1999 till certain companies were nearly bankrupt and sold in a garage sale or when some of the most powerful Indian businesses invented the concept of limited mobility just to gain entry into the mobile telephony business without wanting to compete in a bidding opportunity and avoid paying the entry fee. Later, when, in the name of migration of existing limited mobility operators, 51 new licenses were granted to companies without any public announcement that first come, first served (FCFS) would be used as a process for granting licenses {UASL guidelines of 11th November 2003 (NDA) as well as 14th December 2005 (UPA-I) do not make any mention of FCFS}. Of course, the alleged criminal conspiracy between private operators and a former Telecom Minister is now well known, and the less said about that the better.

Each one of these has a single factor in common. Some company commercially benefitted, either through a delay or the invention of a concept or an opaque process of granting licenses – all of which were to exploit the arbitrage that was offered as a part of the deal. What stood out in each was the “behind-the-scenes” negotiation.

This time around, that strategy has less chance of succeeding. The TRAI has clearly stated with evidence and economics that the tariffs will not go up more than 1.5 paise to 3 paise per minute during the entire duration of the license. This economic evidence presented by the TRAI is important because it must become the basis of the discussion from hereon.

The telecom companies obviously have a significant agenda in keeping spectrum costs low. It improves their returns and reduces their investments. So a bland assertion by them about the TRAI's recommendation being wrong, cannot be accepted at all. The industry has given three different figures: first they said a 20% hike; within a week, a 100% hike; and now, more recently, a 30 paise hike in some circles. There is also a claim that equipment worth lakhs of crores will be dumped based on the recommendations – a cost that will need to be passed on to the consumer. Unfortunately none of these claims have been backed with any strong economic evidence.

So here is the way we should approach this.

As far as the TRAI recommendations are concerned, the government must invite private operators, the TRAI, and officials of the government such as J.S. Deepak, who have criticized the TRAI on multiple accounts, to make their presentations publicly even if it takes two days back-to-back to resolve the issues. All assumptions, numbers, and traffic data should be publicly displayed for analysts, media and the legal community to watch. Stakeholders should remain committed to this process of transparent public dialogue till a common ground can be reached. The gap is so wide that both the TRAI and the operators cannot be both correct. The decision cannot be a compromise, but one that represents the accurate figures, even if based on some sane assumptions.

The only way to bring back credibility for the telecom sector in the short term is to hold the 2G auctions scheduled in August on the basis of a completely transparent procedure, and decisions that are made after everyone has had a chance to attack others' and defend their position for as long as it takes to come to a conclusion.

The most important ingredient which will help improve governance in the telecom sector is a transparent decision-making process.

There is nothing wrong if the TRAI is proved wrong in some of its assumptions or calculations. This is a process that we as a nation must go through – of testing regulators and also getting stakeholders to understand a new, transparent way of engaging the Government on regulations and public policy. We must wean the industry and business from what they are used to – these closed door conversations in Government offices. This time, no discussions or deals should be behind closed doors.

6

India's Proposal In The UN For Government Control Over The Internet Threatens Our Constitutional Rights

Tehelka

21st February 2012

India's proposal at the UN in October 2011, seeking the formation of an inter-governmental, 50-member body – Committee on Internet Related Policies (CIRP) – is perhaps one of the worst ideas that the government has paraded in the last few years.

As someone who is involved with telecommunications, technology and the internet for nearly two decades, I've tried to review this proposal from every possible angle. Apart from the evidence at hand, it is clear that the timing and the language of both the IT (Intermediary Guidelines) Rules of April 2011 – to govern the internet domestically – and the proposal under question six months later in October 2011, shows the government's intent to control and capture the internet space.

Without question, the Indian Government is spooked not just by the Arab Spring – the overthrow of dictators in Libya and Egypt through use of the internet and social media - but equally, a huge mass of humanity that collected within minutes – whether it was outside the Tihar Jail to seek the release of Anna Hazare or at the Ram Lila Grounds to participate in the anti-corruption movement. Regardless of the fate of that movement, the government’s fear that the internet and social media can start a wave of protests that can quickly go national, is the main reason driving this undemocratic proposal of government control over the internet. Now, a brief look at why this proposal is a bad idea.

It’s for the wrong reasons. It is nothing but a government body that would be run by Joint Secretaries or Ambassadors or Telecom Ministers. The objectives stated in the proposal are both weak and easily achievable under the existing system. No doubt, the proposal is cleverly worded with generous use of pluralistic language. In reality, it promotes a dangerous idea which has the UN and control stamped all over it.

The solution is worse than the problem. Apart from the need to exercise control over the internet, and by extension, freedom of expression, free speech and privacy, the real reason being stated in undertones is that the current multi-stakeholder body – ICANN, which governs the internet is located out of the US and has close relationships with the US government.

No evidence has been provided as to how the location of ICANN or its relationship with the US government hurts India. Regardless, I am the first to vote that no single government should have such proximity with the governance of the internet. We must find a way to revolutionize, improve and expand the multi-stakeholder nature of ICANN. But to move from being under the influence of one government to a structure where 50 government bureaucrats and politicians get to decide the future of the internet is like going from a situation that makes us uncomfortable, to one which has the

potential of killing the innovation, growth, and even the internet as we know it today.

The proposal is self-serving. Rather than strengthening the proposal by bringing in citizen groups, civil society and academia, the proposal hopes to put government officials in the core role of deciding the way forward, based on the advice that they receive from other stakeholders. In effect, they could write treaties and bind India to them, and later, we could be subject to those as a signatory. If an issue of defining free speech or privacy was to be discussed with countries such as China, Russia, Cuba, Saudi Arabia, Swaziland, Uzbekistan, Burma, Zimbabwe and Sudan, then you can well imagine what that language would read and how far away it could be from our constitutional rights. Once committed, international treaties will become virtually impossible to dislodge. Even the Parliament could have a hard time taking effective steps undoing such a disaster.

The proposal is lazy and unimaginative. From all evidence since the Tunis agenda of 2005 was announced, little or no effort has been made by India to reform the existing structure. It has middle and junior level officers participating in international forums. Those who drive the agenda send in senior secretary-level officers who are savvy, well-read and confident. In spite of having a representative on the board of directors of ICANN, the Indian government has done little to work with him. The Chinese, who have also sought government control, are working paralelly to get their people elected to some of the most important positions around the world – the oldest trick in the book. India, on the other hand, remains lazy in its approach and unimaginative in its proposal. Its partner countries, Brazil and South Africa, have the worst human rights records till the 90s. If the Indian government can't even come up with an imaginative proposal, how do you expect them to manage the internet when they have a seat at the high table? They are eminently unqualified to take on the job they aspire to do.

The proposal is against India's character and constitution. The plan to subject the internet to a 50-member inter-governmental body hurts India's reputation as a multi-ethnic, multi-cultural and democratic society with an open economy and an abiding culture for pluralism. It's against everything that we stand for. Even Pakistan refuses to associate itself with such a disastrous proposal.

The proposal is against the interest of 800 million mobile and 100 million internet users and counting. The very thought of having the government control the internet or supervise it in any form goes against the concept of the internet as a vehicle for openness, democracy, freedom of expression, human rights, diversity, inclusiveness, creativity, free and unhindered access to information and knowledge, global connectivity, innovation and socio-economic growth. Even if India were to argue that we are committed to these ideals, there is no reason to believe that other government officials will do the same. Remember, only 30% of the countries of the world have real democracies. The rest range from periodic democracies and flawed democracies to authoritarian rules. These governments will be represented in the proportion of their membership (not population) on the 50-member council. They will make the policies and write the treaties. They have no obligation to go by India's values or constitutional provisions, but in the end, the government can use that camouflage to attack our freedom in ways that are currently prohibited. If it sounds scary, just think of the manner in which the IT Rules have been handled, or how Anna Hazare was labelled when he got on the wrong side of the government. Moreover, once such a treaty is in place, it will run across governments – current and future – so anyone could misuse it.

The proposal smacks of hypocrisy. For a proposal that promises to advance the cause of democracy, pluralism, inclusion, openness and transparency, very little has been demonstrated in reality. Almost

no one in the country knew that this proposal has been made behind our backs. There was little or no consultation whatsoever. The Telecom Ministry has engaged in half a dozen open houses since January 2011, but not a whisper about the fact that such a critical document was being submitted at the UN. No substantive discussion in the Parliament either. What possibly could be the motive of keeping a proposal that the government believes will advance the cause of democracy and user interest, secret from those whose cause it pretends to advance?

The proposal goes against the basic engineering architecture and timely decision-making required for internet governance. A centrally controlled, top-heavy, inter-governmental framework is fundamentally against the open and inclusive architecture of the internet. No government should be allowed to dominate this space. An inter-governmental body is much worse, which can make engineering and economic decisions that need to be made quickly, virtually impossible. This is exactly what the internet does not need. Critical decisions relating to the growth and the expansion of the internet will certainly be politically paralyzed when subject to a discussion, or worse still, a treaty between member states that have no ideology to share. Just look at the UN's overall track record for building consensus even on simple issues like halting wars or controlling bloodshed. Can you imagine bureaucrats in charge of the internet?

The proposal is about control, and control in the hands of those who lack competence. Without question, this proposal is about controlling the internet. Or else, the government would have sought an option to expand the multi-stakeholder arrangement or perhaps even argued that the government should get an equal seat along with the other stakeholders. But to alter that arrangement that has added 2.5 billion internet users so far with half a million being added each day, and moving it to government control, is

about controlling the internet. Worse still, even with the best intentions, the bureaucrats are ill-qualified to handle this job.

Lastly, the government's proposal pretends that it is based on the Tunis Agenda of 2005. Nothing could be further from the truth. The Tunis Agenda had multi-stakeholderism written all over it. The government is purposely misrepresenting the sections that it is citing. Paras 34, 35, 56, 58, 59, and especially 61 and 69 do not bear out the need for an inter-governmental body to oversee internet governance with all other stakeholders moved into a peripheral role. In fact, the Tunis Agenda is about inclusion of the government in decision-making and recognition of an appropriate role by the government, not the exclusion of key stakeholders, with the government being in charge.

This is a cause worth fighting against. This has the potential of affecting this generation and most certainly the future generations. The government must be persuaded on rationale and logic to withdraw its proposal, reconsider the options, subject it to a wide consultation within the country, and then lead from the front. US influence should be the least of our worries. The withdrawal of the proposal will be a sign of strong introspection and not weakness. Internet users, bloggers, and most importantly the media, must understand that what seems like an innocuous statement in the UN today has the potential of completely altering their source of communication and access to information and knowledge within a short period of time. This is a dog that should not be allowed to bark.

2G Spectrum Auctions A Huge Challenge

Business Standard

1st May 2012

The last week has seen the government, telecom companies, banks, media, and analysts discussing the possibilities of 2G spectrum auctions in an animated fashion. Turns out, not one is happy. The government hasn't got the 400 days it wanted, the Supreme Court is clearly unimpressed with the government's plea for additional time, incumbents are threatening price hikes, new entrants are raising questions about the effects of such an auction on competition, with the media and analysts representing views and news — all this when there is deafening silence from the 700 million existing consumers (notwithstanding what the government tells you) and another half a billion who have yet to make a phone call from their own mobile phone.

Let me attempt to address the implications and the possible way forward in a few brief steps, especially given the August deadline for auctions and license extension and the reserve price, plus sequential spectrum auction recommendations across multiple 2G bands by the Telecom Regulatory Authority of India (TRAI).

First, this is a complex task which requires an end to posturing, defensive behaviour, and certainly the gross misrepresentation of the truth that has been going on for nearly four years now, especially since end-2010 when Raja resigned. Unless someone can prove the TRAI wrong, it is clear that Sibal needs to immediately give up any residual claims on ‘zero loss’ or ‘auctions adversely impacting affordability’ or that somehow, everyone else — the NDA, the TRAI, Raja — is to blame for the colossal mess. The sooner these issues are buried, the faster we can look towards a fresh start. After the Supreme Court judgment and the TRAI recommendations, all issues of legality, valuation, procedure and transparency have been settled. It will be best for the government to raise their hands, come clean, and move on.

Second, the issues involved in spectrum allocation are so complex and require such meticulous planning, especially given the fresh deadlines, that the matter goes way beyond corruption and the spotlight now is on the government’s competence. It is now fairly explicit that seniormost officials within the DoT, the Planning Commission, and the ministry of finance are out of their depth on this issue. The political leadership requires serious reinforcements with experts without an agenda, who need to focus on broad policies at one level and on minor details at another. Speed, transparency, and a near perfect balance between the policy objectives of telecom growth and government revenues will need to be achieved. We should all be concerned that the current administrative and bureaucratic players simply don’t have the expertise, nor have exhibited any. Where and how soon a high level, empowered, ‘clean’ team can be assembled will be crucial to

the success of these upcoming auctions and the process of getting the telecom sector slowly back on track.

Third, on the issue of reserve price, and unless someone can prove the TRAI's public declaration that the prices will go up only by a handful of paise is wrong, the resolution needs to be reached without guess work. If there is a gap between the operators' version and the TRAI's version, then the final decision must prove who was wrong and by how much. While TRAI little incentive to distort prices, the Telecom operators crying foul certainly seem self-serving. They could well be right, but someone needs to prove that and announce that. No behind-the-door deals this time around.

Fourth, the quantum and sequence of spectrum to be auctioned needs to follow the principle of 'demand exceeds supply'. Nobody anywhere in the world will put all spectrum for bidding at one time. That's not just disastrous fiscal policy but also public policy - since new uses and users of spectrum that science hasn't touched yet could be on the anvil. The TRAI must formally unlock itself from its policy of forbearance wherein it has handcuffed itself. It should be forced to stand by its public announcements and come down on any rate rise under Section 11 of the TRAI Act by regulating rates in public interest —in fact, regulating rates, especially in rural areas. Let's use market forces to bring in competition and discover the fair price of spectrum. For protecting the interest of rural mobile users, let's go back to good old tariff regulation till such time the prices settle again. It's been done between 1994 and 2001. No reason why it can't be done again to protect the consumer.

Last, the Supreme Court has done its job admirably. TRAI for the first time, seems to have put together a comprehensive set of recommendations which it is also obliged to defend. I have written earlier about this being a test for TRAI in terms of setting right its dismal and often dubious track record. It has passed that test. That's the other impact of the Supreme Court judgement — getting the regulator to start doing its real job.

The industry is having its routine fights — GSM versus dual technology — but it is also seeing temporary and unusual friendship between existing and new GSM operators. The government must remain unfazed by these noises; it is now required to do its job in an honest, transparent manner. Time is short, and any deviation from TRAI's recommendations will not only be watched under the microscope, but will need serious, detailed and public disclosure, especially on issues of reserve price, quantum, timing, and sequence of spectrum to be auctioned. We are faced with serious issues and it's a time for serious people. The next six months will be the toughest test, not only of the government's integrity, but perhaps for the first time, of its competence — which has become a huge concern on Monday, perhaps creeping close to the problem of corruption.

8

Not Behind Closed Doors

Business Standard

9th May 2012

The 2G auction recommendation made by the TRAI has generated loud and angry reactions from the telecom industry. Expectedly we saw sights of the big guns of the Telecom sector rushing to the Minister for secret confabulations. It also has had the effect of erstwhile arch-rivals rubbing shoulders and uniting to take on the Regulator.

New entrants such as Uninor and Datacom are aligning with traditional adversaries such as Airtel, Idea, Vodafone and Aircel on one hand, while GSM operators are finding themselves in a conveniently co-located position at least on issues of reserve price with their till-recent arch rivals, the dual technology operators.

The government, for the first time, and rightly, has kept a studied silence on the issue. The Telecom Commission has sent a set of

questions back to the TRAI. In the meantime, the industry continues to make loud noises about how a high reserve price, coupled with artificial scarcity of spectrum, would harm consumer interest and end up raising tariffs. Essentially, the industry is fighting this battle with consumer in the front. As always, the Indian consumer remains faceless and, unrepresented in this debate.

India's telecom sector has been riddled with allegations of secret deals and compromises. Whether it was the delay in ushering in a migration package in 1999 till certain companies were nearly bankrupt and sold in a garage sale or when some of the most powerful Indian businesses invented the concept of limited mobility just to gain entry into the mobile telephony business without wanting to compete in a bidding opportunity and avoid paying the entry fee. Later, when, in the name of migration of existing limited mobility operators, 51 new licenses were granted to companies without any public announcement that first come, first served (FCFS) would be used as a process for granting licenses {UASL guidelines of 11th November 2003 (NDA) as well as 14th December 2005 (UPA-I) do not make any mention of FCFS}. Of course, the alleged criminal conspiracy between private operators and a former Telecom Minister is now well known, and the less said about that the better.

Each one of these has a single factor in common. Some company commercially benefitted, either through a delay or the invention of a concept or an opaque process of granting licenses – all of which were to exploit the arbitrage that was offered as a part of the deal. What stood out in each was the “behind-the-scenes” negotiation.

This time around, that strategy has less chance of succeeding. The TRAI has clearly stated with evidence and economics that the tariffs will not go up more than 1.5 paise to 3 paise per minute during the entire duration of the license. This economic evidence presented by the TRAI is important because it must become the basis of the discussion from hereon.

The telecom companies obviously have a significant agenda in keeping spectrum costs low. It improves their returns and reduces their investments. So a bland assertion by them about the TRAI's recommendation being wrong, cannot be accepted at all. The industry has given three different figures: first they said a 20% hike; within a week, a 100% hike; and now, more recently, a 30 paise hike in some circles. There is also a claim that equipment worth lakhs of crores will be dumped based on the recommendations – a cost that will need to be passed on to the consumer. Unfortunately none of these claims have been backed with any strong economic evidence.

So here is the way we should approach this.

As far as the TRAI recommendations are concerned, the government must invite private operators, the TRAI, and officials of the government such as J.S. Deepak, who have criticized the TRAI on multiple accounts, to make their presentations publicly even if it takes two days back-to-back to resolve the issues. All assumptions, numbers, and traffic data should be publicly displayed for analysts, media and the legal community to watch. Stakeholders should remain committed to this process of transparent public dialogue till a common ground can be reached. The gap is so wide that both the TRAI and the operators cannot be both correct. The decision cannot be a compromise, but one that represents the accurate figures, even if based on some sane assumptions.

The only way to bring back credibility for the telecom sector in the short term is to hold the 2G auctions scheduled in August on the basis of a completely transparent procedure, and decisions that are made after everyone has had a chance to attack others' and defend their position for as long as it takes to come to a conclusion.

The most important ingredient which will help improve governance in the telecom sector is a transparent decision-making process. There is nothing wrong if the TRAI is proved wrong in some

of its assumptions or calculations. This is a process that we as a nation must go through – of testing regulators and also getting stakeholders to understand a new, transparent way of engaging the Government on regulations and public policy. We must wean the industry and business from what they are used to – these closed door conversations in Government offices. This time, no discussions or deals should be behind closed doors.

9

It's Free, And That's How It Should Be

Hindustan Times

18th May 2012

I first raised the issue of internet censorship in Parliament in March 2011, and I am mystified by the Centre's approach towards the internet — it defies logic and is not consistent with the values of our republic and democracy.

There are three realities about India that we must remember, and it is sometimes worth reminding the government about them. First, India is a vibrant democracy with a constitutionally guaranteed right to free speech and liberty. Second, despite our problems, India's democratic model is an aspirational one for many countries of the world; and third, the internet, apart from being an alternative media, is also a platform for innovation and vibrant entrepreneurship. We must keep all the three things in mind while examining the Centre's attempts to regulate the internet.

Across the world, governments fear the internet — because it represents unfettered views, and unlike the conventional media, which is vulnerable to advertising and other forms of coercion, the internet is seen as ‘unmanageable’. And that pushes them to restrain this free and vibrant medium.

The Information Technology (Intermediary Guidelines) Rules would pose a serious risk to our democracy and could be seen as legal intimidation of citizens and entrepreneurs by the government, established political and business interests and religious and cultural bigots. The Rules also violate the rights of freedom of speech and expression of the internet users, by providing for a system of censorship/self-censorship by private parties.

The Rules are riddled with weaknesses and ambiguities and are not good for a small internet consumers or entrepreneurs, but great for bureaucrats and large companies. For example, the Rules put discretion and power in the hands of individuals or large internet companies and they can be coerced. This is wrong. In a country where there is a due process of law and with a legislation like the IT Act, courts or tribunals should be deciding a case.

Many of the categories specified under the Rules are ambiguous. For example, the term ‘grossly harmful’ is not defined. Some of the categories of objectionable content may not meet the requirements of Article 19(2) and could infringe on the right to freedom of speech. The Rules are badly formulated and poorly drafted. Clearly, no stakeholders were consulted. The telecom minister has had over seven open houses — none of which discussed these Rules. There is no doubt that these Rules need to be changed. We need rules but they should be created after consulting the stakeholders. The government must engage and accept diverse views while making those guidelines, eliminate possibilities of misuse, either by the perpetrators, or by the government itself.

The government must annul these Rules and replace them with a set that we can be proud of and is consistent with the core values of our liberalism and democracy.

Another issue that's rearing its ugly head relates to India's position on internet governance at a global level. In October last year, the government moved a ridiculous proposal to shift the existing system by having 50 governments under the United Nations (UN) umbrella provide oversight to internet governance around the world. This is a dangerous view, probably propelled by those who have no idea whatsoever of how the internet works. The pretension that this is being done under the Tunis agenda is worrying. In fact, when this idea was first floated in 2005, Kofi Annan, the then Secretary General of the UN, was forced to distance himself from it.

At a time when the world is looking to India as the leading light of free speech, to make a proposal, which seeks government oversight over internet issues, takes our reputation back to the proverbial stone age of the internet.

The internet was not formed by the government and so it has no business policing it. To move from a multistakeholder-led governance system, which has broad representations from several countries, to a multilateral inter-governmental system, is regressive and can never make decisions which can match the speed of internet.

It is unclear who made this decision and what motivated it, but we should immediately abandon this proposal. We can't be seen as a country insecure of free speech.

India's Proposal In The UN For Government Control Of Internet Endangers Free Speech And Privacy

Times of India

5th June 2012

If accepted, India's cleverly-worded proposal for a 50-member inter-governmental body to control the internet will make the Internet Rules 2011 and the skirmish with Google and Facebook seem like a walk in the park. Engage before it's too late.

If you were even a tad bit worried about the government's intentions to censor free speech by controlling the internet and monitoring your access to the web through a vague and draconian legal framework – 'IT Rules, 2011', followed by an attempt to pre-screen content on Google and Facebook – you haven't seen nothing yet.

In mid-2011, the success of the internet and social media in bringing down dictatorships in Egypt and Libya was being celebrated, and the speed at which anti-corruption protestors

were collecting at various locations in June through December 2011 had dazzled citizens around the world. In this background, and without any prior consultation or as much as a whisper in the Parliament, the Indian government moved a proposal at the 66th session of the UN General Assembly on 26th October 2011, proposing a 50-member intergovernmental (read bureaucrats and politicians) UN Committee on Internet Related Policies (CIRP). This body would control the internet, regulate it through treaties, and oversee all bodies responsible for the technical and operational functioning of the internet.

CIRP is proposed to be served, funded and reporting to the UN General Assembly. In short, all internet control in the hands of a 50-member body run, funded, owned and reporting to the governments of the world. In the process, India proposed to change on its head the current multi-stakeholder internet governance process, which has brought on 2.5 billion internet users to the net thus far, with half a million new users joining each day.

The reason? It is argued that the current governance process is too close to the US government and within the jurisdiction of US law. While this system has served the internet users' needs reasonably well thus far, it is certainly far from ideal. No one government should have excessive influence, but that should mean strengthening the multi-stakeholder governance process with civil society, media, private sector, governments, international organizations, academics, engineers, and students all playing their respective rightful role, rather than handing internet governance over to a bunch of governments – a large majority of which are imperfect or occasional democracies or downright authoritarian rules. Worried already? Here is what else is wrong with India's proposal.

CIRP, with 50 governments in control, will undoubtedly have representations from governments such as China, Iran, Bahrain,

Russia, Sudan, Uzbekistan, Cuba, and Kazakhstan – to name a few. Imagine writing a common treaty which will regulate the internet and govern censorship, including issues such as website blocking and access for Indian citizens based on what these countries consider “appropriate”. In short, imagine negotiating definitions of free speech, freedom of expression and privacy – values that our Constitution guarantees as fundamental rights - with authoritarian states – some with a track record of enhanced internet censorship, web blocking, and in extreme cases, death sentences for netizens and bloggers.

Secondly, internet governance is a highly complex issue – run through a multi-stakeholder model which derives significant benefits from equal access to decision-making. A topdown, centralized international governmental overlay is fundamentally against the very architecture of the internet. No government, let alone an inter-governmental body, can dream of making engineering and economic decisions in lightning-fast internet time. The proposal will be hurtful as engineering and business decisions relating to the growth of the internet become politically paralyzed within a global regulatory body.

While the proposal claims to advance transparency and democracy by shifting internet governance into the hands of 50 government officers, not a single open house or consultation with the multi-stakeholder groups took place before the submission of the proposal in October 2011. Further, imagine advancing the cause of democracy by moving 50 government bureaucrats in the centre of a decision-making process which they are entirely unqualified and ill-equipped to do, while moving the existing multi-stakeholder groups – academicians, civil society, engineers, private sector and international organizations – into the periphery, into an advisory role. Research shows that India’s efforts as a part of the government advisory council to the current internet governance

process has been dismal. It is ill-represented and made no effort to strengthen and improve the existing process before an attempt to destroy it through a bazooka called the CIRP. The Government is trying to piggyback on some anti-US bashing and project itself as the saviour of global Internet governance, never mind its abysmal policy failure of internet and broadband penetration vis-à-vis the success of mobile telephony.

Finally, in spite of cautions, the Indian government, during meetings in Geneva last month on the issue of internet governance, persisted with their proposal for inter-governmental control of the internet. This time, India's statement paraded India's proposal as advancing the mandate enshrined in the Tunis Agenda, 2005. A simple but careful and perhaps two readings of "India's Statement proposing UN Committee for Internet Related Policy – UN, New York, October 2011" alongside "Tunis Agenda for the Information Society – WSIS, 2005" will tell you that nothing could be further from the truth. Every para of the Tunis Agenda invoked in India's proposal rebels against the India's claims. The Tunis Agenda, finalized by over 19,000 participants representing the widest ever multi-stakeholder group and in all of 3 its 122 paras does not even remotely suggest government oversight of the internet, leave alone the formation of a 50-member inter-governmental body. If this proposal is accepted, it will permanently change the internet that we have known and worse still, what the future generations will see of it. The internet is neither owned by governments nor should it be regulated by any – including the US. If accepted, the proposal will make the government's misadventure with the IT Rules, 2011 and the skirmish with Google and Facebook look like a walk in the park.

Everyone who cares about the internet as a symbol of openness, democracy, diversity, inclusiveness, creativity, and unhindered access to information and knowledge must engage and decide for

themselves. Any attempt to expand the government's power over the internet – however incremental, seemingly innocuous or pretending to advance democracy – should be turned back. The UN will decide on this crucial issue by November / December 2012 at meetings to be held in Dubai. Before that, there is a need to urge the government to withdraw its proposal, seek wide and transparent stakeholder consultations and then resubmit an enlightened plan which can safeguard the internet – perhaps the one invention that has impacted our access to information, knowledge, and free speech more than any other.

11

Altering The Landscape Of The Telecoms Sector

Mail Today Online

11th July 2012

The Empowered Group of Ministers (EGoM) on telecom has been tasked with the crucial role of evaluating and finalising several key decisions, including the reserve price for the upcoming 2G spectrum auctions.

Some of these decisions will permanently alter the landscape of the telecommunications sector in India, including the competitive arena, cost to operators, and price and quality of mobile, and in the future, wireless broadband services to India's citizens.

Consideration Given the fact that the EGoM is a collection of political leaders and not subject matter experts on issues of technology, economics, network efficiency or spectrum innovation, it is crucial that they work with the set of recommendations made by TRAI - a specialist body by the government's own claim- or else, they will need to detail publicly every single reason for changes.

More so, since they do not have a firm decision to act upon from the Telecom Commission - the apex bureaucratic specialist policy making body on telecom.

To the EGoM, I make the following submissions:

The work of a specialist regulator - TRAI - should have been evaluated by the Telecom Commission with specific recommendations, since procedurally, the full Telecom Commission is required to take a decision given the sector-specific expertise and the resources that it has at its command. To leave these decisions to the EGoM without specific recommendations on file that convey at least the mind and decision of the Telecom Commission is deeply worrying.

The EGoM must be acutely aware that the government, through its various Press releases in 2008 and 2011, has emphasised time and again that its decisions in the past with regard to spectrum pricing and allocation procedure have been guided by the TRAI's recommendations of 2007.

This position has been publicly reiterated by past as well as the present Telecom Minister, the Prime Minister, Deputy Chairman of the Planning Commission and the present Minister of Law & Justice.

It would, therefore, be a logical conclusion that the same expertise of the TRAI which was being cited as the reason for earlier decisions (January 2010) be upheld, especially since on this occasion, the TRAI seems to have done lot more specific and focused work in responding to the government's reference/Hon'ble Supreme Court's direction.

Any attempt to significantly alter the recommendations made by the TRAI without detailed and proper justification will certainly be open to litigation, especially since the reserve price is an integral part of the forthcoming 2G spectrum auctions which have been directed by the Hon'ble Supreme Court itself.

Unless valid, detailed and transparent reasoning is provided for deviating from TRAI recommendations, any decision of the government will find it difficult to dodge judicial scrutiny.

The TRAI has received the reference twice over on the issue of reserve price. It has not only strengthened its reply during its response to the re-reference, but has, in fact, discarded all apprehensions of service providers relating to the hike in tariffs.

These have been done in a methodological and scientific manner. Changing these would require the exact same rigour of approach. I trust the EGoM will keep in mind the enormous and high quality work that has already gone into making such detailed recommendations.

The recommendations on reserve price by the TRAI take into consideration scientific factors and properties of spectrum, market economics, impact on local call tariffs, previous benchmarks, affordability and the financial situation of the telecom companies.

In effect, it combined multiple expertise before the statutory recommendation was made. Reversing or modifying the same requires the exact same expertise which is virtually impossible to summon at one place in a short period of time. EGoM

Finally, the authority of the regulator, TRAI, has been eroded considerably over the last 10-12 years. This is TRAI's attempt to regain its credibility by first submitting a well-argued and detailed position on reserve price, and later defending it without succumbing to political pressure or corporate lobbying.

Upholding TRAI's statutory recommendations - unless the EGoM can point to any significant flaws in the workings submitted by TRAI - would be the right and proper thing to do.

A new influence on the EGoM's decision making is the change of leadership at the TRAI where Rahul Khullar has replaced the

outgoing Chairman, J. S. Sarma. I hope that the TRAI under the chairmanship of Khullar, will not suggest any significant variance on the work done by his predecessor.

If so, it will be questionable since, at the heart of the detailed analysis and economic projections is the work and dedication of the officers of TRAI. Overturning that or even changing it will further erode TRAI's credibility and reputation.

The EGoM is being ably assisted by some of the best minds on this issue, and is acutely aware of the need to bring certainty into the telecom sector based on respect for the work of a statutory authority.

The EGoM must make a decision that upholds the interest of India's citizens, the revenue objectives of the government, the statutory authority of the regulator, and finally, the need to build institutional credibility at a time when India's most progressive infrastructure sector faces its biggest challenge since the reforms began in the early 1990s.

12

Will High Reserve Price Kill The Telecom Sector?

Financial Express

18th July 2012

Any extreme question deserves an extreme answer, and in this case, the answer is a simple 'no'. Having said that, no sane person can suggest that the reserve price which, in turn, affects the cost of acquiring spectrum, will not affect the viability of the telecom operators. This is a well-established link and it needs to be studied.

In the three sets of recommendations that TRAI has sent – the last being the Impact Analysis, this issue has been specifically covered. It is clear from the analysis that the TRAI has presented, after taking into consideration the data presented by the industry, that the viability of the telecom sector - even after a 5 paise per minute increase in tariffs - remains intact. The model deployed by TRAI estimates total incremental cost and incremental costs per unit of

output. Each stimulation models a particular policy scenario. The additional costs associated with that particular policy option are plugged in to compute incremental costs per minute on a year-by-year basis.

The second part relates to computing the tariff increase necessary to neutralize the increase in cost. The third and other one relevant to this question presents a set of stimulations that examines as to what happens to the financial viability ratio when tariffs are increased by a fixed amount per minute. The analysis has been conducted for a range of tariff hikes between 5-30 paise.

The effects on the industry EBITDA, EBITDA margin, PBIT and RoCE have been analyzed in detail. With nearly 60-pages of annexures and data and detailed workings, including information provided by the industry, it is clear that with just a 5 paise per minute increase in tariffs, the EBITDA and EBITDA margin post impact are higher than in the base case for every year under all policy options in a normal scenario. Further, for most years, the PBIT too is higher than the base case.

The real challenge for the industry is the ability to attract investment capital at one level, and the application of the auction price to a range of spectrum that has been allocated above the contracted amount. In the end, the market and the scarcity quotient will decide the cost at which the spectrum is acquired. Companies which are flushed with funds are expected to protest – as they usually do, and then turn up for bidding immediately after. A closer look at spectrum and license auctions in 2001 and 2010 shows that the companies that were protesting the most also made the most aggressive bids and were by far most successful. In fact, the bids paid off, and till date, they remain healthy on their financial numbers with enviable EBITDA margins even by global standards.

By any conservative estimate, India only has about 700 million plus active mobile subscribers. This would mean that the unaddressed market is at least another 400-500 million – accounting for the last 100 million being either too poor or resourceless, aged and children who cannot afford a mobile phone. Even under such circumstances, the spectrum cost paid at the auctions would be spread across a 20-year license and serve an additional acquisition of 400 million odd subscribers. The protest by the industry needs to be seen in its right perspective.

The Government needs to, in a transparent manner, address the issue of how the auction price based on the reserve price will impact the spectrum that is already in possession of the companies. At stake is nearly Rs 3 lakh crores of revenue for the Government, and therefore, it must go by the detailed analysis on the industry viability that has been presented by the TRAI in discharge of its statutory function. In reality, 2G spectrum and linked mobile licenses were never auctioned after 2001. It is this period between 2001 and 2008 which needs to be corrected. Also at stake is the credibility of the Independent Regulator TRAI which needs to be rebuilt after years of political interference and manipulation.

In the final analysis, the licenses are sufficiently long-term, the unaddressed market substantially large and the Independent Regulator's viability analysis appropriately suggests that the cost of acquiring spectrum at the existing reserve price benchmark will not materially impact the telecom industry

13

Don't Kill Freedom of Speech

Times of India

30th November 2012

The government must reframe our information technology laws to safeguard citizens' rights. In June 2012, I had written an article in this paper where I had pointed out the clear and present danger to our constitutional guarantee of free speech by the government's approach to 'managing' the many opinions and views on the internet — through, amongst other things, a vague and draconian legal framework, the Information Technology (Intermediary Guidelines) Rules, 2011. I first raised this issue of internet censorship in Parliament in March 2011 as a Zero Hour Mention.

Along with many other Indians, I am mystified by our government's approach both to the internet and to the millions of Indians using it. It defies logic and does not adhere to the values of our republic and democracy. Governments everywhere have the same instinctive

fear of the internet — because it represents free and unfettered views, and, unlike conventional media which is vulnerable to coercion, is completely unmanageable for the establishment. And that, predictably, makes governments try to fetter this free and vibrant medium; a natural instinct for those in power who fear being challenged. This misuse of vague rules has now started coming home to roost.

The Shaheen Dhada case — she was arrested along with a friend under Section 66A of the IT Act as well as other sections of the IPC on the basis of a Facebook post she had made — has clearly outraged the country. Attempts are being made, of course, to blame the local police and the complainant for such a heavy-handed action. The Maharashtra government has suspended two policemen who carried out the arrest for booking Shaheen and her friend under “wrong sections”. The judge who granted bail to the two girls has also been transferred. However, all this is missing the point. This complaint and the complainant would not have a leg to stand on if it were not for the vagueness of the IT Rules. The basic tenet of any rule is that it should be precise in terms of the scope and action of the crime that it is to deter and punish. Failing that, laws will always be subject to interpretative action and overreach by vested interests and frivolous complainants. It is precisely in this area that the IT rules fail. They are vague and it’s not clear who they intend to punish; this can lead to tremendous amounts of discretionary power being handed to complainants and the often inexperienced poli-cing authorities.

Given this, they represent a serious risk to our democracy and are now widely perceived as intimidation of citizens and entrepreneurs by the government, established political and business interests and religious and cultural bigots. They are also violative of the constitutional rights of the freedom of speech and expression of internet users in the country. To cite such one example of their

ambiguity, they do not define the term ‘grossly harmful’. Although the IT minister believes that such terms cannot be precisely defined, the fact is that their presence gives far too much room for interpretation to the authorities. In August 2011, my colleague in Parliament, P Rajeev, introduced a motion to repeal these rules. At the end of a good debate on this subject, the IT minister gave an assurance that he would call a meeting of members and stakeholders and implement the consensus that emerged. The motion was negated based on that assurance. In August 2012, one year after the debate, the minister convened one meeting, but the rules remain unamended even now. This matter needs to be addressed on an urgent basis, for which I propose to file a PIL in the Supreme Court.

The dangers about the likely use of discretionary powers has been highlighted by US Supreme Court judge Harry A Blackmun who said: “By placing discretion in the hands of an official to grant or deny a licence, such a statute creates a threat of censorship that by its very existence chills free speech.” Therefore, there is no doubt in my mind, as in the minds of millions of our young countrymen and women, that these rules need to be changed and reframed. Rules are required, but they should be created through multi-stakeholder consultations. The rule-making body must have the ability to genuinely engage and accept diverse views while making guidelines. It must also be specific where restrictions on citizens are concerned in order to eliminate the possibilities of misuse.

The way forward is to have a group of experts or a committee working together to aid the IT ministry and concerned MPs in outlining how the language of the rules may be changed. Based on these discussions and drawing from the industry and our premier academic institutions experienced with questions of law, technology and regulation, such a group can work with the government to put out their final draft on the internet in a time-bound manner. This is

an important process without which we will remain exactly where we are today. So annul the current rules and replace them with a set that we as a nation can be proud of — one that is consistent with our core values of liberalism and democracy.

Digital India's Transforming Role

Open Magazine

4th March 2015

Digital India will transform India and democracy through a more effective citizen-government engagement, will usher transparency in governance, take the government to the remotest villages and citizens

The Narendra Modi government, soon after its epic May 2014 electoral victory announced the ambitious Digital India programme with the objective of “Transforming India into Digitally Empowered Society and Knowledge Economy.” The programme would focus on being “transformative” for India, to realise the Prime Minister’s vision of $IT + IT = IT$ – a clever epithet that translates to “India Today + Information Technology = India Tomorrow.”

This was powerful vision being made by a leader who had caused a

tectonic political change through the significant use of social media and digital engagement of citizens and voters. Research from the McKinsey Global Institute makes astounding forecasts – in a 2014 report, the Institute stated that Digital India positions our country with the biggest opportunity yet to accelerate economic growth. In the next 10 years, leveraging technology in India through Digital India could pump in anywhere between USD 500 billion and USD 1 trillion into the economy – which represents anywhere between 20% to 30% of the current GDP of India, and is as much as the share that the manufacturing sector currently makes to the Indian GDP.

But the test of the Digital India vision and goals, lies in how it shall concretely transform the lives of the 1.2 billion Digital Indians. If the 3 vision areas for the programme – infrastructure as a utility to every citizen, governance and services on demand driving government efficiency, and digital empowerment of citizens, are any indication, this is a plan that indeed has the potential to revolutionize the lives of citizens. Information and services can be accessed with no delays – and this shall empower the citizens and propel the economy forward. The key task that now lies before this government is to create an enabling policy and execution ecosystem for technological transformation of the country. This will require a legislative environment where all stakeholders are allowed to function and fulfil their roles, and an investment backed, detailed execution plan.

Technology to Transform Government

One of the defining attributes of the Modi Government thus far has been his unrelenting focus on increasing the efficiency and effectiveness of the government. The results of this focus on bureaucratic efficiency and government execution is already very visible in the progress made in various projects during the last nine months. Already technology is being used – be it in attendance

monitoring or other areas. Amongst the budgets many structural reforms is the focus on technology based targeting of subsidies. This JAM effort is probably the best thought through effort during the last six decades to tackle the scourge of leakage and corruption in subsidies.

Technology bears a direct relationship with bringing in effect a more efficient, transparent and accountable government. Creating a technological platform for administrative and decision making processes moves governments to a new form of more responsive and transparency. Transparency in turn means less corruption and crony capitalism. Responsiveness means less red tape and more efficient environment and life for citizens.

A host of other allied benefits would be accrued including reducing expenditure, enabling real time data analysis, and ensuring a faster movement of information and intelligence to key players in the bureaucracy. Each of these will in turn result in swifter, informed and more accurate decisions and policy making being taken by the government machinery. A big deal when policies are usually made by vested interests and lobbies in absence of data and facts.

Another budget promise is the transformation of our economy into a cashless economy. A good example of a well-executed technologically enabled governance service of the government is the Pradhan Mantri Jan Dhan Yojana. The National Payment Corporation of India (NPCI) has built a platform that, reportedly, connects all banks and telecom operators in the country. In 2014, 26 public sector banks and 3 private sector banks joined this platform that enables customers of any bank access their accounts, check balance, perform money transfers, among others through even basic feature phones. This is one of the many measures undertaken by the NPCI to make India into a cashless economy, and once well entrenched, will transform the way Indians bank, make significant savings for the exchequer while improving end line service delivery.

The priorities mentioned by the Prime Minister in his electoral manifesto spoke of a “people oriented system to be put in place” and “stress on addressing people’s problems”. Nothing would serve that cause better than technology for service delivery and grievance redressal. It cuts down on bureaucratic procedures, and provides citizens access to information, along with expectations of a meaningful response.

Technology will Transform the Lives of Citizens

The remarkable story of a 69 years old farmer from Dharwad district of my home state Karnataka gives us a small window into exactly how the lives of India’s 1.2 billion citizens can be positively impacted by having access to a integrated technological governance and citizens service delivery platform. BM Hanasi, the owner of a seven-acre plot of land left the Karnataka cabinet completely mystified after he wrote to Chief Minister Siddaramaiah enquiring why the government was not using Google Earth’s latitude and longitude coordinates and WhatsApp to verify and expedite crop insurance claims.

Currently, to assess crop damage, agents and officials have to harvest damaged crop at six different fields, take note of the last seven-year yield for the same crop and then calculate the damage. The process for awarding compensation is also protracted as the amount is first sent to the insurance company, which in turn sends it to the deputy commissioner who then remits it to the beneficiary.

By simply being technologically enabled, citizens such as Hanasi can be saved of the mire of government bureaucracy and political corruption. A painful process for a citizen, that would otherwise take upto six months, could be transformed in to a real time process through the use of simple, affordable and easily accessible technologies. This is the real opportunity and potential of Digital India – the benefits it brings to the end line service user - and the

government needs to do all that it takes to harness it.

Whether the focus is on transforming the government-to-citizen, government-to-business or government-to-government dynamics, there is a need for this programme to go beyond directional statements and accelerate towards a vision for a virtually integrated India - which is already home to 850 million mobile users and 220 million Internet users. Virtually Integrating India

While physically integrating the country is expensive (because of costs of airports, rail links etc) and is time consuming and is a work in progress – Digital India can integrate far flung parts of the nation with the rest of the country. The North East, Jammu and Kashmir can be integrated far more efficiently, economically and in all other ways on a Digital network. The possibilities of creating entrepreneurs on the back of these are immense thus also possibly transforming local economies. In a sense, the ultimate objective of Digital India is to integrate the country and the economy. By facilitating an efficient, enabling technological platform, citizens from the remotest parts of the country shall be able to partake in and contribute to the country's economy. The North Eastern states for instance, hold tremendous potential for Information Technology led growth and development. With a very high literacy rate (over 70 %), and large number of people fluent in English, the region holds strong potential for growth of information technology enabled services – which is precisely what the eighth pillar of Digital India - 'IT for Jobs' is about. Envisaging a country that successfully navigated the transformation of the Telecom sector, and created over one crore jobs over a five year period through Business Process Outsourcing units

Digital India in Budget 2015

Digital India did not find elaborate mention in the Finance Minister's Budget address earlier this week. The extension of the National Optic Fibre Network was announced, and the programme goal of

connecting 2.5 lakh Gram Panchayats by 2016 was only simply reiterated.

The challenge for Digital India is to provide last mile connectivity to Phase 3 and 4 areas – which are India's smallest towns and villages. Digitising these inhabitations require massive investments. It is clear that while Government has a role in making investments, bulk of this investment and innovation must come from a Public-Private partnership that brings in the strong technological and entrepreneurial eco system of India fully into this. It is clear that the success of Digital India' depends on the innovative policy and enabling framework that government creates – and it is equally important that apart from being an investor, the government assigns to itself a role of being an innovation and investment enabler and plays that role well.

Digital India is a plan that will transform India in many real ways. The focus now is to move from the talk of Digital India to the real walking and building on the talk. India's role as a global technology leader and indeed as a democracy that's redefining the role of citizenship and government will be shaped by the success of Digital India.

Net Neutrality: Why Cast The Net?

Economic Times

14th April 2015

When the Digital India programme was announced in July last year, I had lauded the Narendra Modi government for recognising the transformational potential of the internet for governance and the government-citizen relationship. I have always maintained in Parliament and outside that this vision needed specific policy action. This includes an internet that is easily accessible, affordable and free from intrusive government control.

It seemed almost self-evident that the next steps taken by the government would be to create an enabling policy framework for Digital India. This would include allowing the internet to grow without fetters or discrimination in access — a position referred to as net neutrality.

I had advocated this through my participation in a standing committee meeting on net neutrality in January this year. I had met with very positive responses from the government and the department of telecommunication during this interaction, unlike the representative of the telecom regulator, Trai, who chose to obfuscate.

In a letter to the TRAI chairman in January this year I had brought this to his attention; he had in turn promised there would be a fair and open consultation.

TRAI, however, decided to throw up some surprises. Its recently released 118-page consultation report on ‘Regulatory Framework for Over The Top services (OTTs)’ takes a highly dubious pro-telecom operator position. It not only assumes the need for a regulatory framework, but also seems to advocate that telecom companies should be permitted to differentially price services (that they consider as utilising bulk bandwidth), or slow down access, through various discriminatory practices.

Equal treatment?

The internet is a network where all information and services are transmitted as data packets that are identical in structure and cost. In other words, all data packets used by consumers are treated equally by Telecom Service Providers (TSPs).

The companies proposing these discriminatory pricing are the existing big players — namely telecom companies, who would like to continue to be gatekeepers to the net and profit by doing so, and some internet apps that would like to ensure that competition from new startup technologies is blocked.

A few companies would like to control consumer choice. Consumers will either have to pay additional, separate charges for each type of service, or will only be able to access certain content at significantly lower speeds.

The report has several passages that betray the regulator's disregard for objectivity. For instance, there is a section that provides a detailed tabulation of the "adverse impacts" of the proliferation of OTTs such as Skype on telecom operator revenues.

This is notwithstanding much data readily available in the public domain confirming that telecom operators continue to earn healthy profits; besides, there is an alternative argument that telecom operators actually benefit from the growth of OTTs. No regulator has the right to prevent consumers from accessing innovation and choice because of "adverse impacts" of this disruptive technology on an existing set of companies.

Choice matters

Trai, therefore, seems to be completely oblivious to the adverse impact of that regulating OTTs will have on consumers, or on internet-based startups. Worryingly, Trai defines the major challenge by blatantly stating, "In a non-level playing field, how can such OTT app providers be brought within the ambit of the prevailing regulatory regime of the country to ensure public safety and security of users?" An undiscerning reader would be near convinced that telecom operators are victim to OTT malpractice.

The growth of OTT services is simply a manifestation of the tremendous opportunity for innovation provided by the internet. Businesses such as Flipkart, Alibaba and Snapdeal are all successes supported by a neutral internet.

These services have widened consumer choice. Disruptive technologies are a norm in the telecommunications sector — this should not be the reason to deny consumers of choice. Our digital policy ecosystem must encourage telecom operators, among others, to innovate.

Bandwidth and speed are the only means by which TSPs should be allowed to create new pricing models. Content should not fall under their purview.

I have urged consumers to speak out and defend their rights. I will also raise this issue in the upcoming session of Parliament — for a free, open and accessible internet is crucial to innovation, connectivity and economic growth.

Net neutrality lies at the core of how consumers are able to access the internet — and is therefore crucial to the success of Digital India. There should be no conditions placed on consumers for using OTT services, and absolutely no restrictions on the internet. The internet is too important to let a few private telecom players decide what the rules will be for consumers

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A Free, Open, Safe And Growing Internet Is Path To Digital India

Hindustan Times

18th April 2015

As someone associated with the dawn of the Internet in my days working in the Silicon valley and then later with the dawn and sunrise of the Cellular revolution in India – I was enthused when Narendra Modi Government launched its Digital India initiative transformational potential of technology and the Internet for Governance and the Government-Citizen relationship. That was good news.

The Internet was born and has grown and will continue to grow as a collaborative platform that has no owner and no gatekeeper. While countries like China and other authoritarian countries make much efforts to gate-keep the Internet, it's a doomed to fail battle because of the nature and the DNA of the Internet. As Internet gets more global and at the same time gets smaller - embedded

in smaller and smaller footprint devices including wearables –and innovation gets more disruptive and disruption becomes the new normal – policy challenges for regulators and Governments are becoming more complex. Further complicating the mix are the twin issues of cyber security and privacy as Internet becomes the new haven for criminals and terrorists and as consumer data and information resides in many databases all over the net.

In India, the Internet is important also because it is transformative of the Government and Governance in a fundamental way. It connects up citizens to the Government in a way where none of the intermediation (that touts and haftas represents) is required.

Digital India and Internet have been in the news in recent weeks. But for the wrong reasons. First for the Supreme Court strike down on Sec66A and now a huge consumer outcry on the issue of Net neutrality. Both these events point to two things – i.e. that Governments and Regulators ignore consumers at their peril and that there is considerable policy work and reforms required before the vision of Digital India can become a reality

After the strike down section of 66A, I had made it known in clear terms that this was a positive development – not simply for the digital freedom of citizens, but also for Digital India. It seemed almost self-evident, that the next steps taken by the government would be to create a suitably enabling policy framework to facilitate the technological transformation that Digital India would usher. This would include, Internet free from intrusive Government or Private Telco control and an Internet that is accessible easily and affordable by all! Also an Internet without any fetters or discriminations of access – a position referred to as Net Neutrality.

Net Neutrality lies at the core of how of consumers are able to access and use the Internet – and is therefore crucial to the success of Digital India. I had raised this issue many times earlier and, had

recently urged consumers to speak out and defend their rights to a Net neutral Internet as is their right, triggering a new phenomenon in recent days – a loud and visible Consumer movement! In a country where consumer interest has been paid short shrift all this while, this has caught policy makers and investors off guard to say the least. Consumer activism and awareness is on the increase and that has become evident in this debate on Net neutrality.

But the capability gaps in the Institutions DoT and TRAI that are required to deliver on this vision of an open, fair, safe and growing Internet are becoming painfully clear. The TRAI in particular – an Independent regulator that was created with great promise in 1998, has consistently fallen short in its mandate. It has consistently under-delivered on its consumer and public interest mandate – a mandate for which it has powers under the law TRAI Act. In the recent Net neutrality debate, the TRAI has spectacularly underperformed! Shooting itself in the foot with a 118 page consultation paper that was to reflect both sides of the issue but it seems someone forgot to tell them to add the second side – and so it covers only a long litany of questions and complaints that seem to originate straight from big telcos mouths. There by shattering any illusion or promise of Independence that the regulator is supposed to live by. The consultation paper also perhaps reveals the lack of understanding of the issue by the TRAI. Ignorance and hubris is a dangerous combination that takes the country nowhere near the goals of digital India.

There is no doubt Telecom operators have a motivation to manage their network in a manner that maximizes their business interests. Their investments are critical to developing national infrastructure on which the current and future Internet can operate. As anyone even remotely associated with Tech sector will realize, innovation and disruptive technologies are the new normal. What is expected of these Telecom operators is to rapidly evolve and change their

models as they are doing successfully as the numbers indicate. Instead, the move to seek regulatory protection or policy protection is not going to find a lot of support, least of all amongst consumers who are being asked in essence to give up their right to use and experience innovation on the Internet.

The move to have additional access charges for apps like WhatsApp, Skype etc., in addition to normal data rates was a foolish move. It is unacceptable for the Telecom operators to ask consumers to subsidize the costs of protecting their business model and of transformation to this new data centric world. Instead the Government must look at incentivizing further investments if such incentives are necessary, but not at the cost of the open and fair and net neutral character of the Internet.

The Chairman of the Federal Communications Commission Tom Wheeler, had in a compelling opinion piece this year, made the case that it is possible to assure Internet users a neutral Internet “to go where they want, when they want, and the rights of innovators to introduce new products without asking anyone’s permission” as he puts it, while also encouraging investment in broadband networks.

The to-do side on the Governments policy table are clear if they are to make Digital India a reality -

1. A new IT Act - The current act is 7 years old and was passed without a debate in Parliament. Given the recent Supreme Court strike down of 66A and the many new changes in technology, we need a new law.
2. Government needs to legislate and come out in favour of Net Neutral Internet. Indian consumers deserve a fair, open, safe and grow in Internet.
3. Given the technology is changing so fast, policies to address new trends of Internet of Things needs formulations

4. A new approach to Global Internet Governance – India’s position currently is less aligned to technology and democratic nations and more with countries like China and Saudi Arabia

5. Transform DoT and TRAI to move beyond licensing – reform the licensing structures and make these Institutions more Innovation drivers and Investment enablers than what they are now.

The Government’s decisions over the coming months shall determine India’s digital footprint and roadmap for what consumers want – A free, open, safe and growing Internet!

Reforms Are Needed Before Vision Of Digital India Can Be Realised

Hindustan Times

24th April 2015

As someone associated with the dawn and sunrise of the cellular revolution in India, I was enthused when the Narendra Modi government launched its Digital India initiative.

The internet was born and has grown and will continue to grow as a collaborative platform that has no owner and no gatekeeper. While countries like China and other authoritarian countries make efforts to gate-keep the internet, it's a battle they're doomed to fail because of the DNA of the internet. As the internet gets more global and gets smaller — embedded in smaller footprint devices including wearables — and innovation gets more disruptive and disruption becomes the new normal, policy challenges for regulators and governments are becoming more complex. Further complicating the mix are the twin issues of cyber security and

privacy as the internet becomes the new haven for criminals and as consumer data and information reside in many databases all over the net.

In India, the internet is important also because it is transformative of the government and governance in a fundamental way. It connects citizens to the government in a way where no intermediation is required.

Digital India and the internet have been in the news in recent weeks. But for the wrong reasons. First, the Supreme Court struck down Section 66A of the IT Act, and now a huge consumer outcry on the issue of net neutrality. These events point to two things — that governments and regulators ignore consumers at their peril and that there is considerable policy work and reforms required before the vision of Digital India becomes a reality.

The removal of Section 66A was a positive development — not simply for the digital freedom of citizens, but also for Digital India. It seemed almost self-evident that the next steps taken by the government would be to create a suitably enabling policy framework to facilitate the technological transformation that Digital India would usher in. This would include the internet free from an intrusive government or private telco control and an internet that is easily accessible and affordable by all. Also an internet without any discrimination of access — a position referred to as net neutrality.

Net neutrality lies at the core of how consumers are able to access and use the internet — and is therefore crucial to the success of Digital India. I had raised this issue many times and had recently urged consumers to speak out and defend their rights to a neutral internet. In a country where consumer interest has been paid short shrift all this while, this has caught policy-makers and investors off guard. Consumer awareness is on the increase and that has become evident in this debate on net neutrality.

But the capability gaps in the institutions (DoT and TRAI) that are required to deliver on this vision of an open, fair and safe internet are becoming painfully clear. It has consistently under-delivered on its consumer and public interest mandate — a mandate for which it has powers under the TRAI Act. Shooting themselves in the foot with a 118-page consultation paper that was to reflect both sides of the issue, someone forgot to tell them to add the second side — and so it covers only a long litany of questions and complaints that seem to originate straight from big telcos, thereby shattering any illusion of independence that the regulator is supposed to live by.

There is no doubt telecom operators have a motivation to manage their network in a manner that maximises their business interests. Their investments are critical to developing national infrastructure on which the current and future internet can operate. As anyone even remotely associated with technology will realise, innovation and disruptive technologies are the new normal. What is expected of these telecom operators is to evolve and change their models as they are doing successfully as the numbers indicate. Instead, the move to seek regulatory protection or policy protection is not going to find a lot of support, least of all among consumers who are being asked to give up their right to experience innovation on the internet.

The move to have additional access charges for apps like WhatsApp and Skype, in addition to normal data rates, was a foolish move. It is unacceptable for the telecom operators to ask consumers to subsidise the costs of protecting their business model and of transformation to this new data-centric world. Instead, the government must look at incentivising further investments, if necessary, but not at the cost of the open and neutral character of the internet.

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that it was possible to assure the internet users a neutral internet ‘to go where they want, when they want, and the rights of innovators to introduce new products without asking anyone’s permission’, while also encouraging investment in broadband networks.

The to do items on the government’s policy table are clear if they are to make Digital India a reality. They include: A new IT Act — the current act is seven years old and was passed without a debate in Parliament; the government needs to legislate and come out in favour of a neutral internet; given that technology is changing so fast, policies to address new trends of the internet of Things needs formulation; a new approach to Global internet Governance India’s position currently is less aligned to technology and democratic nations and more with countries like China and Saudi Arabia; and transform the DoT and TRAI to move beyond licensing. Reform the licensing structures and make these institutions more innovation drivers and investment enablers.

The government’s decisions over the coming months will determine India’s digital footprint and roadmap for what consumers want — A free, open, safe and growing internet.

Government Needs a Chief Technology Officer

Economic Times

3rd July 2015

Digital India will empower Indians and transform India in many real ways and can be the prime mover to making a reality, this Government's promise of "Minimum Government, Maximum Governance". Prime Minister Modi's Minimum Government definition envisages a government with minimum required approvals and interactions for a citizen, and Maximum Governance is based on administrative efficiency, responsiveness, transparency and equity. Such a transformation in Governance requires technology to be firmly embedded into Government - something that the Digital India project lists as one of its foremost objectives.

Embedding technology into governance processes will do three things:

- a) It will transform Government and make it more transparent and efficient.
- b) It will transform the lives of citizens, especially those who we commonly refer to as the “Bottom of Pyramid”.
- c) It will make our economy more efficient and competitive.

This is backed by research. A 2014 report by the Mckinsey Global Institute predicts that the large scale adaptation of technology through Digital India positions our country with the biggest opportunity yet to accelerate economic growth.

E-governance and technology in Government is not a new idea. This has evolved over the years from simply replacing typewriters with Personal Computers and a process of ‘computerization’ to a more complex multi-functional, department wide-application of the concept. However, despite thousands of crores of rupees spent in the last decade in the name of E-governance and efficiency, there has been little change in Government as a consequence of these investments.

The reason for this is that the process of embedding technology in Government has for several years been a bottom up process. Individual departments and offices are undertaking this independent of each other. Thus crores of rupees are being spent in systems and projects that are incompatible and don’t work with each other – defeating the purpose of e-governance and reducing these investments into local computerization efforts.

Take the huge data collection exercises and databases – the Aadhar database on biometrics have a different architecture and hardware from other similar large databases overseen by the Finance and Home Ministries amongst others. Or the case of data servers and networks – which have different security and architecture specifications in different departments – leaving Government agencies with differing levels of vulnerability to cyber-

attacks. Further, embedding technology into limited silos makes data driven, real time analysis of Governance and policy action impossible, or at best, inaccurate. This approach is also expensive and inefficient in terms of costs associated with procurement, obsolescence and administration. This silo based or bottom up approach to embedding technology also has another big failing – in that it doesn't create the process reforms and efficiencies at the topmost levels of Government decision making - which is where it is most required.

More mature democracies such as the US have beaten India in recognizing the need for a Chief Technology Officer. President Obama made this appointment a centre point of his 2007 electoral campaign. Obama conceptualised the role of the CTO to be someone that would “focus on transparency” and ensure “that each arm of the federal government makes its records open and accessible as the E-Government Act requires.” India needs to take a similar approach and seriously use this as a precedent whilst rolling out Digital India.

Government is a sum of various parts. Currently some of these parts are efficient and technology enabled while others are either are sub-optimally enabled or technologically bereft. The consequence is that Government's efficiency as a whole is measured by it's least efficient or least responsive departments - just as a Governments are known by their worst Ministers and not their best.

A good CTO is essential to make the Government function as a unified machinery that operates with consistent standards of efficiency, transparency and responsiveness. That is key to realising Maximum Governance Minimum Government.

The focus of the CTO should be to design an architecture that achieves three broad goals – a) enable easy, transparent access for citizens and business to and from Government, b) enable Government departments to operate transparently and efficiently

and c) Connect various departments to ensure Government and policy makers operate in a seamless, transparent, responsive and data driven manner.

For this, the CTO should re-architect the Government's existing technology investment, connectivity and access mechanisms. The CTO can then help embed layers of applications including security measures into the ecosystem in a manner that ensures that the Government of India applies the same standards of responsiveness, transparency and access regardless of department, hierarchy or region. Creating such a standardized architecture will also save thousands of crores in procurement and administering efficiencies.

Digital India promises to “Transform India into a Digitally Empowered Society and Knowledge Economy” – The Narendra Modi Government has so far shown itself to be the most pro-technology government, and a CTO in his team can help him achieve goals of Minimum Government, Maximum Governance.

Report On Net Neutrality Reveals Why DoT Isn't Equipped To Deal With Digital India

Scroll.in

8th July 2015

The Department of Telecommunications released its report on Net Neutrality last Thursday. I spent the weekend reading the 115 page document and have drawn a few conclusions. The first of which is that I could've used my weekend for some better reading!

On a serious note though, this report highlights how behind the times the DoT is. I can understand the TRAI failing on the net neutrality issue, but the DoT, that is supposed to have 13 floors of technical expertise in the Sanchar Bhavan has hardly covered themselves with glory with this report. What was expected from the DoT was a clear, concise, technology led laying down of principles, definition and rules about net neutrality. Instead we have a document that is full of quotes – ranging from Vin Cerf, Peter Drucker, Alan Cohen (who is that?), expounds on philosophical

and management jargon and ends with a lame “the crux of the matter is that we need not hard code the definition of Net Neutrality but assimilate the core principles of Net Neutrality and shape the actions around them”! Really? That’s what the DoTs role is now? Instead of outlining clear and concise governance and policy rules in a fast changing technology world, you want to give us pep-talks?

Net Neutrality is a very simple concept – it is about creating an internet free of any gatekeepers, and is open, accessible and unhindered. It is an issue that is really very easy to understand and simple to define, legislate and regulate. It is off course going to be opposed by powerful Telco interests and it is in this context that the committees report needs to be seen. There are many parts of this committees reports that are identical to what some Telcos have written in their response to the TRAI consultation paper. The attempt to regulate Internet communications apps is flawed blandly accepts the Telcos repeated assertion of ‘level playing field’ and ‘loss of revenues’. Revealing that DoT is ignoring - robust data revenue growth of the Telcos ; that a circuit switched Public Land Mobile Telephony network (PLMN) and an App on the Internet are two different worlds.

It’s obviously not a coincidence that some Indian Telcos are trying to further their investments and interests in the internet, including some who are trying to launch similar VoiP services and it doesn’t hurt their business interests to have the govt tighten the screws on successful apps like Whatsapp, Viber etc. It’s technically almost impossible to distinguish between domestic and international VOIP to support DoTs categorization of ‘domestic’ and ‘international’ VOIPs. Also the distinction between voice and non-voice content can’t be made without going into deep packet inspection which then flags off privacy concerns. All very impractical and unviable and all this coming from the technical experts! And at a basic level,

what constitutes the communication service? Will the Telcos now demand level playing field between messaging services and sms quoting loss of revenues?

Serious questions arise therefore, about this report's independence and commitment to internet consumer rights – and indeed why it has avoided setting the rules for Telcos to protect against their commercial temptation to gatekeeping. About why they have not ventured into hard coding a definition. At the very least, the DoT could have hard coded exceptions that would not be permitted. Instead of cracking down on zero rating it is ambiguous about it and while it has come down hard on the Facebook run internet.org it has suggested that similar zero rating products offered by telecom operators should be dealt with on a case by case basis by TRAI.

To be fair, the report repeatedly trumpets that “core principles of Net Neutrality must be upheld” – off course no one knows what these core principles are – and there is only a set of guidelines that is an annexure but not in main body of report. This report is classic bureaucratic attempt to walk a middle path, but instead feels and reads like a compromised effort on the issue of net neutrality.

The duo of TRAI and DoT have been long complicit in some of the worst things that have happened in Telecom sector that range from scams, policy capture by Telcos and consumer interests being damned like Call drops. I had written early on this Government to the Telecom minister about the need to focus on improving capacity in the DoT to deal with emerging challenges of Technology and Internet sector.

The Minister has clarified that this is not the Governments decision – and so its high time the Government took its decision. If its waiting for TRAI – then they must appoint its new chairman and issue a directive for TRAI to complete its report in a time bound

manner and leave it then for Govt to take a full and clear decision that places the Internet and the consumer at its core. Given that there are currently 3 consultation processes underway – with the DoT, TRAI and the Standing Committee on IT all deliberating on the issue, it is important that the public has a clear idea with regard to the timelines and milestones for each. The DoT report is the first indication of the Government’s opinion on central issues concerning Net Neutrality, and unfortunately, has taken on a confused and conciliatory tone that has left those following this debate confused and wary.

Digital India: Opportunities and Pitfalls

Rediff.com

9th July 2015

The Digital India program was launched amidst much fanfare last week, in an event where the Prime Minister and Telecom Minister etched the roadmap for India's Digital Transformation. If it was earlier unclear how the program would tangibly benefit India, the PM's address directly allayed these concerns – he has stated that Digital India has already received investment commitments worth Rs. 4.5 lakh crore, and added that about 18 lakh jobs would be created as a result of Digital India activities over the next 5 years.

The tremendous economic opportunity that Digital India presents has been well documented – A 2014 report authored by the McKinsey Global Institute has forecasted that Digital India positioned our country with the biggest opportunity yet to accelerate economic growth. In the next 10 years, leveraging

technology in India through Digital India could pump in anywhere between USD 500 billion and USD 1 trillion into the economy – which represents anywhere between 20% to 30% of the current GDP of India, and is equal to the share that the manufacturing sector currently makes to the Indian GDP.

The transformational benefits of embedding technology into governance are also well documented –Technology could help 200 million to 250 million Indians improve nutrition and raise incomes by receiving their full entitlements of subsidised food (using electronic payments or technology-enabled distribution to reduce leakage of benefits). About 90 million farmers in 2025 could improve their incomes through access to real-time market information. Technology-based teaching methods can improve school learning outcomes and thereby raise the productivity of some 24 million students who will enter the workforce by 2025, and help bring vocational training to 18 million to 33 million more Indians.

Additionally, an estimated 300 million Indians could achieve financial inclusion through technology-enabled services in 2025, and 400 million of India's poor could gain access to improved health-care services.

There is, therefore, no doubt that technology will transform the lives of citizens – be effecting a swift and direct change in the citizen-government and government-government dynamic. It is also clear that this Government, through Digital India is looking to usher in India's technological revolution, and importantly, has fundamentally understood the transformational potential of technology and is willing to deploy the efforts required to make this happen. There are however, some very valid policy concerns that the Government needs to concertedly address as a priority, in order to ensure the success of the program. These challenges threaten to derail the country's Digital India vision, and cannot

be subdued by the rhetorical catchphrases and alluring changes of transformation, that are only the end result of a successfully executed program.

First, the delays in the laying out of the National Optic Fibre Network need to be addressed. The NOFN is the backbone of Digital India –it creates the infrastructural framework upon which internet connectivity, (and all its allied benefits,) shall be made available to everyone of India's 250,000 Panchayats.

In response to a question in the Lok Sabha in February this year, the Ministry of Communications and Information Technology reported that only 1275 blocks have started work under phase 1 of the NOFN. It has also been reported in the media that we are laying out only 500 kms each month, as opposed to the 30,000 kms of cable that need to be laid out. Reasons for the slow progress of the program need to be enquired into, and action needs to be taken to expedite this process on a priority basis.

Second, the Government needs to examine the validity of claims from industry on spectrum shortage. While the Telecom Minister denied this in an interview this year, it is worth examining what made TRAI chairman Rahul Khullar echo this claim last year, when he said that "The availability of airwaves in India is less than 40 per cent as compared to European nations and less than 50% than in China."

Spectrum is a scarce resource, but measurements reveal that several licensed frequency bands are underutilized most of the time. The Government could consider introducing emerging technologies such as Cognitive radio (CR) that could allow spectrum to be used more efficiently. A CR transceiver scans for unused bands and changes its transmission and reception parameters to different frequencies during heavy data loads without interruption. It also can listen for interference on busy channels and calculate a way

to reduce it so the channels may be used by more people. The key advantage of CR, also known as dynamic spectrum access (DSA), is that it can sense an unused channel and switch to it. The US government is currently using this technology to improve the efficiency of spectrum use.

Third, and most importantly, the Government needs to create an enabling policy ecosystem to ensure that legislation and regulations bolster e-innovation and the design of Indian applications. This can only happen if the internet is neutral – i.e. open, fair, accessible and has no gatekeepers. This is crucial for new entrants to have the ability to create applications and services that enable the Digital India objective of improving the efficiency of government and other services. To this extent, the Government's official policy on Net Neutrality shall be crucial.

Fourth, the Government needs to create a unified and efficient technological platform for the entire government machinery so as to ensure that all tasks both government-government and government-citizen are automated. This, as I have said in an article for the Economic Times last week, shall require a good Chief Technology Officer within the Government to lead the process of creating and embedding such a platform. The platform that allows it to operate with consistent standards of efficiency, transparency and responsiveness. The creation of this platform is essential to realising the vision of Maximum Governance Minimum Government.

Fifth, is the issue of Cyber Security. As Digital India accelerates towards its vision for Universal Access, there is also a need for the Government to create a robust internet safety architecture. A 2014 report, ranked India second, only after the United States for cyber crimes through the social media. India is also ill-equipped to handle cyber terrorism attacks. There are major gaps in present day skill situation concerning IT security, which can impact handling

of cyber threats in industries such as banking, defence, healthcare, information and energy amongst others. Cyber Security therefore remains a huge gap in India's internet policy ecosystem and must be at the very top of the MoCIT's list of policy priorities.

These five issues are pivotal to ensuring Digital India's success and require the immediate intervention of the Government. There is much to gain from a Digital Transformation, but we now need to ensure that the rhetoric is backed by solid and well thought through execution.

Net Neutrality Crucial For Digital India's Success

Times of India

9th July 2015

As Digital India week comes to a close, word is that India has elected to power its more pro-technology Government yet. Yet, there is speculation of self-created hindrances to the Government's Digital India Vision. If media stories from the last fortnight are any indication, the so far unreleased report of the Department of Telecommunications on Net Neutrality is making a case for the licensing of Voice over Internet Protocol Services such as Whatsapp and Skype.

During his address at the Digital India launch event, Prime Minister Modi elaborated on the need for the program to focus on innovation. The Prime Minister assured full support to young entrepreneurs who wished to launch Start-ups. He called upon the youth to innovate and said "Design in India" is as important as

“Make in India.” In the launch, the official policy on Internet of Things – pegged as the driver of Innovation for Digital India was also announced.

I would argue that a pivotal part of supporting India’s start-ups and young e-innovators, and enabling the proliferation of the Internet of Things in a big way, is creating a policy and regulatory environment that allows them to function without any bureaucratic fetters. This is why, the need for a neutral Internet, without placing any licensing requirements on the Indian developers of the next WhatsApp or Viber or any other application that would use a VoIP feature is of imperative importance. If the Government is indeed committed to the Digital India vision, it needs to explicitly clarify on its position on Net Neutrality, and the licensing of applications.

The concern with regard to cherry-picking VoIP applications for licensing is that it shall prevent future technologies and applications that could very well combine VoIP with other features in a truly trans-formative way for the citizen or consumer, from being developed.

This is especially true in light of the Government’s current focus on the Internet of Things. The IoT is a giant network of connected “things” (which also includes people). With the development of IoT, the relationship between people-people, people-things, and things-things shall also be transformed. But the future of IoT will be reliant on Combining a host of cutting edge features of technology with everyday objects is the future – and this is also something our draft Internet of Things policy would have us believe.

The Government’s IoT policy states: “With the advent of the Internet of Things (IoT), fed by sensors soon to number in the trillions, working with intelligent systems in the billions, and involving millions of applications, the Internet of Things will drive new consumer and business behavior that will demand increasingly

intelligent industry solutions, which, in turn, will drive trillions of dollars in opportunity for IT industry and even more for the companies that take advantage of the IoT.”

It would be naïve and impractical to license VoIP based applications, as in the times to come, some of the most useful and transformational technologies are very likely to use VoIP features in combination with regular messaging, content sharing or transactional features. Legitimate cyber security concerns can be dealt with by other far more efficient solutions.

The key to the future of the IoT and machine to machine (M2M) technology is making different services (including VoIP services), networks and applications integrate seamlessly. Without net neutrality, this will be a big challenge, as service providers now have control over what services, applications and devices can use their networks to communicate with others.

To license VoIPs at this stage would prove disastrous for India’s innovation ecosystem, and amount to pandering to the invalid argument of the Telco lobby which asks for a “level playing field” between apples and oranges.

The irony is that these technological developments provide a huge opportunity for Telcos to boost their own revenues in an unprecedented manner – something I had also argued in my formal submission to the TRAI Consultation. The IoT policy itself acknowledges this – “IoT offers avenues for telecom operators & system integrators to significantly boost their revenues and this has resulted in their taking lead in adoption of IoT applications and services being offered by the technology.”

As someone who has spent more than a little time in this sector, disruption is the new normal in technology. By resisting this, the Telcos are only defying the laws of gravity of the technology sector and trying to duck innovation and change.

The Government's report on Net Neutrality shall be the first official marker on its Digital India position. I hope it will be reflective of the tremendous potential and creativity that can be unleashed by a successful Digital India and not a short sighted self-goal under the influence of a few Telcos.

Lack Of Capacity In Departments Letting Down Government's Vision On Digital India

Hindustan Times

29th September 2015

U-Turns on Net Neutrality, Porn Ban and now the draft encryption policy. This is the third time in as many months that the government has had to take a step back in the face of a strong public outcry against 'draft policies' relating to technology and the digital consumer.

For a Government that is very committed to Digital India and transformative powers of technology, the series of mis-steps point to something bigger - that of a disconnect between the stated objectives and visions of the Prime Minister/Government and what the bureaucratic machinery (aka expert committees) are trotting out.

The products of two 'expert committees' under the Ministry of IT/DoT – first in Net neutrality and now this Encryption were incomprehensible and poor quality.

Worse they were unimaginative and intrusive and contradicting the PM's avowed position of empowered Digital consumers. Same too was the comical response on Child Porn by the DoT.

In this case of Encryption, it is accepted that regulating encryption and indeed the Dark Internet is an important policy objective for any Government's cybersecurity framework. But for it to suggest that every message a user sends - be it through WhatsApp, SMS, e-mail or any such service - must be mandatorily stored in plain text format for 90 days and made available on demand to security agencies with failure to do so entailing legal action which included imprisonment was head-shakingly outrageous.

Issues like Privacy, Net Neutrality, and Freedom of expression online and fettered rights of Government to take down Internet etc are all part of a matrix consumer rights and expectations that make the building blocks of a successful Digital India.

The Government position on these pivotal issues of policy relating to the Digital and technology space seems to be led more by Courts and public outcries rather than being set politically by original and clearly thought through positions. The mandate for this Government was to make a marked departure from the UPAs 'control' mindset to a more liberal consumer oriented one. What is even more disconcerting is the inability to make a clear departure away from the policies of the UPA in these areas.

This is also spotlighting the lack of capability within these Government departments to deal with the sophisticated and sometimes complex issues relating to the fast changing and disruptive technology space and the challenges of regulation in it. While Governments all over the world are all dealing with similar challenges and changes - they have also deployed best minds and leadership to evolve solutions, we seem to continue to rely on bureaucratic knowledge or lack thereof in addressing these sophisticated and complex world of technology.

DoT, TRAI and in this instance the DeitY don't have the technical capacity to deal with issues relating to hi-end technology, let alone going forward and proposing policies for governing them. In this case for example the draft policy on encryption put the onus on the citizens to store the encrypted information for 90 days from the date of transaction and provide the verifiable Plain Text to Law and Enforcement Agencies as and when required as per the provision of the laws of the country and that only the government of India shall define the algorithms and key sizes for encryption in India. This is hardly a cutting edge technology solution and instead smacks of lack of imagination and innovation, loudly signaling country's security agencies inability to crack encryption as is done routinely by the security agencies in the west.

Capacity building in TRAI, DoT and DeitY are critical if we are not to look and act like amateurs in a world of professionals. There is a need for a realization the seemingly conflicting issues of national security and consumer rights, and internet freedom can co-exist if dealt with creatively and technology.

Rampant Call Drops and Ineffective Regulator

Financial Express

1st October 2015

In the continuing saga of customers vs Telcos', with a hapless regulator in the background, the latest is the issue of deteriorating call quality –aka call drops. The problem of call drops is legitimate and real problem and warrants attention and scrutiny from Telco's, the Regulator and the Government in equal measure. Originally restricted to a few pockets of mobile service coverage and a few customers, the unaddressed problem has exploded into a nationwide customer grievance impacting most of the 900 million mobile customers – a testimony amongst other things to a Regulator, apathetic to consumer related concerns.

A mute and ineffective regulator has in turn created a culture where Telco's are unaccountable on issues of Service quality and consumer issues, which in turn has led to one where investments

required in expanding network capacity and quality are being ignored. If we are to go by the recent quarterly audit reports of networks conducted by TRAI, it would suggest to us that “Performance of the service providers was fairly satisfactory for Network Parameters”. TRAI’s denial of this problem is quite appalling and hints at an institutional problem as it seems to have completely either abdicated the responsibility of consumer protection or worse still been captured by commercial corporate interests. The recent utterances of the Vodafone India CEO in which he dismisses quite blankly the Telecom Minister’s statement’s on call drops as not being representative of the entire government’s view is evidence of this unaccountable culture pervasive amongst telcos in India. As someone who has been associated with telecom before and someone who has heard it all the excuses that the telcos give for call drops is full of holes.

The government has rightfully put the onus and responsibility of ensuring the quality of service on Telco’s. Predictably, the Telco’s have tried to slip out of this obligation towards consumers, by referring to problems they face with getting permissions to set up new cell sites and tower. This alibi is used repeatedly to dodge their service obligation. Regrettably neither the DoT nor the regulator TRAI have examined this claim nor any substantive evidence been advanced to back these claims. The other oft-used alibi is inadequate spectrum – but even this is untenable, since out of the 470 Mhz available for auction, 11% went unsold in the spectrum auctions in March 2015

In the absence of any data or evidence, this claim of the Telcos is being accepted blandly and customers continue to be added by the Telcos without any regard to the impact of this on network quality and degradation. The obligations of service quality are dealt with blandly with no pause by the Telcos on the ramp up of customers which in turn create further network engineering and

quality issues. Call drops is a direct consequence of overloading networks' and under-provisioning of capacity. The spectrum cost is a red herring, it is simple the telcos must grow network as you grow your subscriber base.

Despite what I believe is a bland claim, the Government can and must do its best to make the siting of cell sites and towers easier. With more transparent norms for radiation and availability of Government owned buildings to site cell sites. But, the fundamental change that is required a much firmer and cleared approach of the Government and regulator to the issue of Quality of service (QoS) norms that are to be expected from Telcos and become license conditions for them.

Currently 2 percent of call drops is allowed for wireless Telcos – a number that is the range of tolerance of RF networks- but the real experience based on consumer feedback/complaints suggests that almost all Telcos have registered more than two percent of call drops and especially in the metros. TRAI has reported that Vodafone and Aircel are not meeting the benchmark of less than or equal to 3% for the parameter worst affected cells having more than 3% traffic channel (TCH) drop. This was stated in Parliament by Telecom Minister Ravi Shankar Prasad, in response to a Parliamentary Question on May 9th, 2015. With there being no standard definition of a dropped call, it makes any enforcement of the current QoS regime vague. Thus far, the Telcos have used this ambiguity to stay on the right side of the rules. This has allowed them to make ludicrous claims, like they are meeting the criteria of less than 3 call drops per hundred calls, something every reader of this article will confirm as total non-sense.

Call drops are also a route for Telcos to bill the same call multiple times, especially since estimates of 40% of the Telco base are not on per-second billing. Which means that almost 400 million consumers end up paying multiple times for the same part

completed call. Imagine this, if you are a consumer who is not on 1 second billing and you make a call which is interrupted three or 4 times . You may end up paying for between 30—40 seconds per call more every time. While this may seem insignificant for a call, multiplying this 400 million times and then multiplying it 365 days a year and multiplying with 4 calls/day means a lot of money flowing in one direction – from consumers to the Telcos.

The solution to call drops is better engineered and designed networks which invariably means more efforts in Network optimization by the Telco and also more investments in cell sites as customers increase on the network. All this costs money for the Telco and there is a natural incentive to cut this short. There is only one way to ensure Telcos don't take a shortcut on this, i.e. the Regulator and Government establishing a strict and strong QoS norm, with punitive penalties for Telcos that breach these QoS norms. A dispassionate and neutral assessment of the Indian Telecom landscape and the problem of Call drops will conclude that it's the absence of this strong QoS norm and almost absent Government/TRAI initiative in this regard, that is allowing Telcos to shortcut the need to invest in Network Optimization and capacity growth and pay more attention to consumer issues.

Digital India is an ambitious vision to transform India. At the heart of Digital India is fast, reliable digitally enabled networks that allow consumers the full experience of a digital ecosystem. The current Call drop situation is a loud clarion call for policy makers in Government that our networks and Telcos are way too far from providing the infrastructure required for Digital India experience. There are signs that this Government is waking up to this challenge after several years of it being ignored.

On July 7, the government ordered the Department of Telecom (DoT) to conduct a special audit of mobile networks and has asked TRAI to formulate a system of incentives and disincentives

for service quality. The audit will be carried out by the Telecom Enforcement Resource and Monitoring cell of DoT. What is imperative to combat this menace, is a reverse of the lackadaisical approach that has been adopted so far and adopting a new approach to regulating the Telcos with respect to their obligations to providing high quality network experiences to their consumers is necessary. A focus on consumers by the Regulator and DOT, a new QoS including regular audits and punitive penalties to erring Telcos need to be introduced to combat Call drops and deteriorating network quality.

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Stalled In Mid Stride

Times of India

26th October 2015

Among the flurry of initiatives announced in the wake of the new government taking over in May 2014, the Digital India initiative stood out for its potential to transform governance, citizenship and entrepreneurship in our country. It's an exciting vision because of its potential to leapfrog a nation and people into the technology age creating unprecedented competitive advantages for India. It's also exciting because of the promise to transform utterly decrepit institutions of government and democracy fulfilling the "minimum government, maximum governance" goal of Prime Minister Narendra Modi.

But a year and half on, the gap between vision and execution on the ground is wide and growing. Serious questions are popping up on the capacity of the ministry and regulator to both understand and implement Digital India.

From the get go, it was obvious that Digital India and connecting Indians to the internet transformational as it was going to be needed serious work. It has taken about \$100 billion of investment over the last 21 years to get 900 million Indians behind a mobile phone. In recent years about 200 million Indians have also connected to the internet. An estimated \$80 billion is required to get 600 million Indians connected to the internet. Early on in this government's term, i had written to government and in articles about the key building block issues that need to be addressed.

At the heart of it is credible independent regulation. India's TRAI is an agency that has suffered from serious credibility problems both in terms of quality of its regulation and perceived capture by some telcos. It's handling of issues like call drops and net neutrality has been simply terrible, raising more questions than it answered.

TRAI's capacity needs to be strengthened to regulate a sector where disruptive technologies are the norm and where consumers expect unfettered access to these new innovations, without being limited by legacy licensing or business model issues.

Focus on rights of a billion Indians destined to become digital Indians is important because consumer rights in the technology and telecom space have been given short shrift over the last decade. An infamous example is poor network quality and call drops - an issue only being handled belatedly after public outcry.

On call drops, government has demonstrated the will to break the vicelike hold of a few telcos that have in recent years controlled policy making unchallenged. That this must be balanced with the need to attract \$80 billion in capital into the sector is what makes TRAI's and government's job a sophisticated and nuanced one.

There are other building blocks that are critical to creating the policy ecosystem for Digital India - net neutrality, privacy, data protection, encryption, and access and infrastructure investments.

Net neutrality is an issue that arrived at the table of policy makers almost 12 months ago and remains without policy clarity to date. A report by an expert committee of government showed how far away government is from where it should be. Public outcry caused an abrupt disavowal of the report.

Net neutrality is a very simple concept it is about creating an internet that is open, accessible and free of any gatekeepers. It is an element of Digital India that should be simple to define, legislate and regulate. It's critical in many ways to growth of Digital India, to investments, to supporting digital entrepreneurship and creating a smooth roadmap to future innovations around the Internet of Things and Industrial Internet. Net neutrality is a defining issue for the growth of internet in our country. Government's much delayed policy making in this area is a big deal, hurting the future of Digital India.

Privacy is yet another issue where government is behind the curve. One of the implications of Digital India is that millions of Indians will have their data and personal information in various government and private databases scattered around the country and overseas. This raises serious issues relating to privacy rights of the consumer. But government's position in the Aadhaar case is that privacy isn't a necessary right. I am also a petitioner in this case, now being heard in the Supreme Court.

Absence of privacy legislation is also causing government missteps like the bizarre encryption policy it issued recently, which had to be taken back amidst public furor. The debate on privacy is gaining strength and momentum globally as well. As more and more Indians get online, the clamour for protection of their data and privacy will only grow. It would be unwise to ignore this.

Finally and most importantly Digital India requires significant investments from the private sector. While there is significant global interest amongst investors in Digital India, government

responses in recent times to net neutrality, the porn ban saga and encryption policy highlight the large gap between the vision of Digital India and its execution.

To make real the Digital India vision and of taking government and services to a billion Indians via the internet, TRAI, DoT and DeitY have to be transformed with the specialized capacity required to deal with technology policy making and regulation. Government needs to reverse its current struggling and muddling through trial and error; it must race ahead of the curve through smart policy and leadership.

Call Drops: Consumers Face More Losses Than Telcos Ever Will

Mumbai Mirror

4th January 2016

In October this year, the Telecom Regulatory Authority of India (TRAI) did something it hasn't done for a long time - it stood up for the Indian consumer by holding Telcos responsible for the menace of call drops.

TRAI had issued a notification on 16th October this year which mandated monetary compensation for dropped calls from 01 January, 2016 at the rate of a rupee for each such failure. Punitive measures for call drops is something that I have been advocating for several months now.

This bold move by the TRAI has caught the Telcos by surprise, who by now had gotten used to providing alibis and excuses to get themselves out of their obligations to their customers. In predictable hyperbole, the Cellular Operators Association of India (COAI)

responded almost immediately, terming the punitive measure as “grossly unjust” and a move that “will eventually negatively impact the interests of the consumers”. However, Consumers are being affected today, as a TRAI report published in October titled “Audit and Assessment of Quality of Service of service providers through independent agencies for Cellular Mobile Telephone Services, Basic Services and Broadband Services” confirms. TRAI has reported that ‘the results showed unsatisfactory network quality.’ In Delhi, it was found that no operator has a call drop ratio within the acceptable range of under 3%.

This decision was to be implemented from 01 January, 2016. However, the Delhi High Court has issued an interim stay in the order following an appeal by the COAI.

Apart from being troubling to consumers, call drops are also a huge source of revenue to some Telcos. If you are one of the 40% of consumers who are not on 1-second billing (which I started first in Mumbai when I launched BPL Mobile), and you make a call which is interrupted 3-4 times, you may end up paying for between 30-40 seconds per call more every time. While this may seem insignificant for a call, multiplying this 400 million times and then multiplying it 365 days a year and with four calls per day would certainly account for increased revenues of hundreds of Crores every year to Telcos.

It is precisely to stop this callous treatment of consumers and this profiteering from consumers that TRAI has - for the first time and rightly - put the onus and responsibility of ensuring the quality of service on Telcos. This is the beginning of a focus on consumers’ rights for all the 900 million Telecom consumers around the country and a commitment to the Quality of Service (QoS) that they are entitled to. In turn and predictably so, Telcos have, for several years, repeatedly tried to dodge their obligations towards consumers of this country, by referring to problems they face

with getting permissions to set up new cell sites and towers. The reality is this - Call drops are a direct consequence of overloading networks and under-investing in network capacity. The spectrum cost is another red herring - since it's obvious that you must grow your network as you grow your subscriber base.

Faced with the need to step up to serving consumers, Telcos have instead rolled out the spin, with predicting imminent doom for them (as usual!), claiming losses of upto a whopping Rs. 150 crore per day for the industry. Forgetting, of course, that these fines are payable only if they provide bad calls, which they are anyways obliged not to do. As someone who understands Telecom more than a little, I can certify to the 100% bogusness of these claims.

There are things that the Government can do and must do to support the Telcos, of course. State Governments must do their best to make installing cell sites and towers easier—with more transparent norms for radiation and the availability of government owned buildings for cell sites. The DoT and TRAI need to set clear QoS norms, regularly audit the Telcos and restrict overloading of networks, and set in place punitive measures for Telcos that continue to deliver poor customer service and calls.

Telcos should wake up to the idea - whose time was overdue and at last has come - that Telecom consumers have fundamental rights to good service, and there's only place for Telcos that recognize that unalienable truth, because Indian Consumers deserve better.

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A Digital Magna Carta

Times of India

19th January 2016

The year gone by 2015 has been an important year for Indian Digital consumers. A strong, strident debate has started around a set of consumer rights issues, like Freedom of Expression (Section 66A), Quality of Service (QoS, aka Call drops and Internet access quality), Net Neutrality, Privacy, etc. A debate that is evolving slowly and surely into a Magna Carta for the Internet and Telecom consumers that enshrine rights to quality service, free and fair competition, privacy and freedom of expression, amongst others.

While some policymakers may be rattled by the stridency, I am happy to see this engagement by activists and netizens - a big help in architecting a new policy framework for the digital age.

2015 was also a year when Indian Netizens were at the receiving end of dismal, technically inept regulations drafted by the Regulator

and/or the Ministry – with the Porn Ban, the Draft Encryption Policy and the initial consultation proposing a regulatory framework for Over the Top (OTT) applications. In each of these cases, it triggered an uproar. It also exposed the weakness of the TRAI, and in particular, the absence of a legislation to protect consumers, when repeated regulations were being challenged and stayed in Courts around the country as consumers remain hapless and deprived of some important TRAI orders like call drop penalties, Internet landing costs, because of cases pending for several months, if not years.

Net Neutrality is, of course, a vital part of this basket of consumer rights. The Internet is a free and open space that's becoming a valuable market place on one hand and a forum for free expression/alternate media on the other hand. Telecom companies, big businesses (on and off the web) and Government/politicians are all naturally impacted by the growing power and presence of the Net. There is naturally the tendency of all those associated with the Internet to gain control of the net or control what net users read and consume on the net. That is, therefore, the crux of the fight for Net Neutrality.

The current debate about Net Neutrality, whilst it has many reasoned views, has been dominated by a growing cacophony or rant against Facebook and its Freebasics. While a call to examine the impact of FB's offering on competition on the Internet may indeed be justified, this is a dangerous distraction away from where the real problem is - because the real danger to a free, fair and open Internet is the growing Power of Telcos and TSPs to 'cabelize' the Internet. Apps and websites like Facebook are easily examined and regulated anytime by the Competition Commission if there is any evidence of market place or competition distortion.

Net Neutrality is ultimately about preventing Telcos from creating, increasing and misusing their power over the Internet. Their desire

to differentially ‘rate’ different parts of the net transforms access providers of the Internet into Gatekeepers of the Internet – thus ‘cabelizing’ the internet.

Telcos are/want to use Data pricing or Network management (data rate/speed) to preferentially provide access to preferred parts of the Internet. This creates islands on the Internet through power of Access providers – which in turn slowly and surely creates an irreversible amount of commercial power concentrated in a few Telcos. This is what I call ‘Cabelization’ of the Internet. Once developed, it is almost impossible to regulate given the finite competition and entry barriers to creating new competition. That is precisely the situation we want to avoid vis-à-vis the Internet, where Telcos start influencing users and steering them onto parts of the Internet where they gain more.

There is substantive evidence in India of the market power of cable operators, and of the misuse, pricing abuse, extortionary pricing or poor QoS that helpless consumers have to suffer when access providers start controlling access to content and where rampant price gouging and/or poor quality is inflicted upon the hapless consumers. This Gatekeeping power of the access providers creates permanent distortions which even regulation can’t manage today.

This second consultation by TRAI on ‘Differential Pricing’ is key because it addresses one important part of Net Neutrality and where it has unchallenged powers of tariff setting.

I have, in my response, suggested that zero rating or differential tariffs be permitted only and only if the regulator is satisfied about lack of any direct or indirect financial interest/ quid pro quo. I am opposed to a complete ban on zero rating because it is possible and may be necessary that many Government-mandated sites are indeed accessible to the user, zero-rated or free. The only scenario that I see zero rating permissible is one where there is a promotion

or price-off or it's access to Government-mandated sites. But TRAI has to test these offerings for any financial benefits/interests, direct or indirect, that exist before permitting these. Any competition and predatory pricing implications of such tariffs should be examined by Competition Commission before being permitted by TRAI.

Any other tariff that involves using network management (data rates/speeds) or differential pricing to parts of the net for commercial interest would be gatekeeping and cabelization of access TO the Internet and needs to be prohibited by regulation.

But it is important to realize that this consultation by TRAI is still only addressing part of Net Neutrality issue because tariff caps can easily be skirted by Telcos by other commercial deals with websites. Cabelization of the Internet by telcos is an imminent danger that will still require to be addressed as a priority, despite this consultation.

It has been more than a year since I first raised the issue with both the Government and the Regulator TRAI, about Telcos' attempts to distort the net and violate Net Neutrality. The slow, ineffective and part-by-part response by the Government and the regulator has to do with the fact that they both lack the legislative tools to rein in Telcos and TSPs. I have been arguing and seeking this for several years now - starting with Kapil Sibal in the UPA Government - to amend the TRAI Act and enact a separate legislation for Net Neutrality which has force over Telecom licenses. I repeated this in this newspaper in Oct 2015, when I wrote about the need to legislate for Net Neutrality. The TRAI Act in particular needs serious review and revamp to give it more teeth to enforce consumer protection issues urgently before the power of Telcos becomes impossible to regulate and future of the Internet becomes irreversibly lost to big Telcos.

Even my friend Nandan Nilekeni, who has been on the opposite side of consumer issues such as Privacy, has recently recognized the need for legislation to protect the consumer and Internet. But belated as it may be, it's a good addition to the push for Net Neutrality and other consumer rights. As I wrote in this paper way back in July 2015, Net Neutrality is key for Digital Indians' success. Here's hoping that 2016 be the year not just of Digital India but Digital Indians.

Its Not About Facebook, Stupid

NDTV

12th January 2016

In January 2015, over 12 months ago, I first raised the issue with the Government and the Regulator TRAI, of the attempt being made by Telcos to distort the net and violate Net Neutrality – an issue that forms an important part of the basket of consumer rights that ought to be enshrined, for the Netizens and Digital consumers of our country. Twelve months on, here we are – in yet another consultation by the TRAI – albeit this time asking better questions.

The last year has been, in many ways, significant for Internet consumers. A strong, strident debate has been launched around Net neutrality, with plenty of passion and some understanding. It is certainly a debate that is evolving slowly and surely into a mature push for clearly drawn consumer rights - a kind of Magna Carta for the Internet and Telecom consumers that enshrines rights to

quality service, free and fair competition, & privacy and freedom of expression, amongst other issues.

While some policymakers are rattled by this stridency, I am happy with the sustained and continued engagement by activists and netizens on the issue. Indeed, it is something much required in this fight for consumer rights. I am, however, disappointed with how some voices have characterized the debate on Net Neutrality as a rant against Facebook's Free Basics. There is also limited commentary by the leaders of some traditional IT companies who in all likelihood, haven't the faintest clue of what regulation is or must achieve.

The issue of net neutrality, simply put – is about protecting the Internet from being controlled by commercial entities therein giving them the power and influence to determine consumer choice and consumption of content on the Internet. This power could be of two types

- i) The power of telcos to control or influence consumers vis-à-vis which parts of the net they visit (Telecom companies and Internet providers that provide access to the Internet for consumers).
- ii) Second, the power of Large Internet websites to crowd out competition through unfair means.

Both of these scenarios represent different regulatory challenges.

Take the first case – This involves preventing telcos from using Data pricing or Network management (data rate/speed) to preferentially provide access to preferred parts of the Internet. This creates islands on the Internet through access providers – which in turn slowly and surely creates an irreversible amount of commercial power concentrated in a few telcos. This is what I call 'Cabelization' of the Internet.

Once developed, it is almost impossible to regulate, given the finite competition and players in telcos, and difficulty in creating new

competition to telcos. That is precisely the situation we want to avoid vis-à-vis the Internet, where Telcos start influencing users and steering them onto parts of the Internet where they gain more.

There is substantive evidence in India of the market power of cable operators, and of the misuse, pricing abuse, extortionate pricing or poor Quality of Service that helpless consumers have to suffer when access providers start controlling and influencing access to content. This gate keeping power of the access providers is unique because of the finite number of access providers in competition, and creates permanent distortions which even regulations, as they currently stand, can't manage.

This, in turn, creates a situation where rampant price gouging and/or poor quality is inflicted upon consumers, leaving them hapless except for upgrading to more expensive options. Cabelization of the Internet causes vertical integration which would lead to telcos owning parts of the net and impacting consumer choice and competition in the long term by making web-only entities unviable and unable to compete. There is ample evidence of that in the Indian Television and Media sector where vertically integrated entities have distorted choice and innovation, and have created market power concentration.

My submissions to the TRAI have been very simple and follow the need to 'Protect against cabelization of access TO the Internet' and 'To ensure free and fair competition amongst websites/apps ON the net'. I have submitted to the TRAI that - Telcos could be free to zero-rate or offer discounted access to websites as part of promotions or improving affordability or mandated by Government for public service. But this cannot be on the basis of financial arrangements or Interests between websites/apps and telcos, i.e., No financial benefit must accrue to telcos by providing cheaper tariffs to access some parts of the net. Telcos must also have no financial interest (including direct or indirect equity/

ownership) in the sites that are being offered price-offs or any form of evidence or action of subsidy. In the Free Basics case, it is about Reliance offering free access to a part of the Internet, and is therefore open to being examined for any commercial benefits accruing to Reliance directly or indirectly from Facebook.

With regards to Differential Pricing, I have submitted that it cannot be permitted if used to increase data rates for certain apps or create preferential access to part of the net or its inverse. This is an inverse form of Predatory pricing.

Further, for purposes of clarity, Telcos cannot be allowed to increase tariffs to access some parts of the web or apps. This is a deliberate effort to make access more expensive to or faster/slower to some parts of the Internet, thereby pricing out the app/site from the consumer. This is the gatekeeping and abuse of power by telcos to discriminate against certain apps that leads to cabelization and creating islands on the internet.

The second case – Free and fair competition or the issue of large websites trying to get bigger or promote some parts of the web - is not as serious as an issue as it's been made out to be. Because there is almost infinite competition on the Internet and its difficult for any one web entity to corner the Internet – and impossible. But the issue of free and fair competition on the internet is a legitimate expectation of consumers – be it Flipkart or Facebook or Google or Yahoo or anyone running a large app. But these can be easily examined by Competition Commission whose mandate is precisely this – i.e., to ensure free and fair competition in all marketplaces including the web.

The current debate about Net Neutrality, whilst it has many reasoned views, has been dominated by a growing cacophony or rant against Facebook and its Freebasics, when Apps and websites like Facebook are easily examined and regulated anytime. This

is a dangerous distraction away from where the real problem is emerging from - because the real danger to a free, fair and open Internet is the growing Power of telcos and their ability to use financial deals with certain parts of the net to create a fait accompli for the consumer. This is where the danger is to the future of the Internet.

Net Neutrality, is ultimately about preventing Telecom Operators from creating, increasing and asserting their power over the Internet. It is therefore obvious that the biggest and most urgent challenge of Net Neutrality ought to be to protect from the 'cabelization of the Internet' and that this is squarely for the TRAI and Government to do with clear unambiguous legislation and laws. Apart from laws to ensure a Net Neutral Internet, it is necessary to improve the TRAI Act and the capabilities within both the Department of Telecom (DoT) and TRAI to regulate technology in India.

Good Start For ‘Start-Up India’ Policy Support Necessary To Make It A True Revolution

Scroll.in

22nd January 2016

Last week, the ‘Start-up India’ Action Plan was launched by Prime Minister Modi. This focus on start-ups is important in many different ways – as an alternate to big corporate India’s lack of investments into the economy, as a way of catalysing entrepreneurship to create jobs, and as a way of tapping the demographic dividend of India as a competitive advantage in the global economy.

With more than 4,100 Tech start-ups, India is home to the third largest number of Tech start-ups in the world and countless other non-tech start-ups. The PM’s Action Plan lays out detailed steps that make it easier for start-ups to operate - from defining a start-up to providing a 80% rebate on the filing of patents; making it easier to setup and run a start-up...Now with the tax exemptions, credit

incentives, discounts on patent filing and a dozen more benefits, the Start-up India initiative will, without a doubt, be a boost to the existing start-ups. Funding to the tune of \$9 billion was pumped into Indian Tech start-ups in 2015 - an amount which is equal to the total funding start-ups received between 2010 and 2014. The self-certification and funding support system, in particular, will help increase the number of Tech entrepreneurs and innovators in setting up new ventures.

As someone who himself started-up his entrepreneurial career in one of the first Cellular start-ups in India – I can endorse the need for this focus on start-ups by the Government. Start-ups in India have had two traditional significant barriers or obstacles. One, the apathy, corruption, red tape of Government and its policies to those without ‘connections’. And second, the destructive power of big corporates in India who, through their political power and influence, can stop dead a start-up if it attempts to compete with them. I have experienced both first hand, and so, can testify to the power of both to disrupt the best start-ups. It is this that makes most start-ups focus on the Tech sector because of the minimal influence of Government and corporates into that space. But it’s necessary for our policy makers to address this issues with deeper structural reforms that broadens the Start-up India appeal to non-Tech sectors.

These structural reforms and policies go beyond the current action plan, tax incentives and removing red tape. It must go into issues that deal with policy making that is fair and equitable (and not biased in favour of any big corporate), regulatory reforms (that allow regulators to intervene if big corporates try and muscle in on start-ups), banking and capital market reforms (that allow capital access to all and not just a few connected or big corporates, as is the case now), and reforms like GST (that make it easier for small start-ups to operate in the entire country) and a marketplace that allows for free and fair competition.

These reforms are not particularly unique to start-ups; they also impact the Small and Medium businesses that already operate but are particularly life-supportish for start-ups that need every encouragement to be successful.

Let's look at one example of how Government policy making is key for Start-ups – in the Digital and Tech space, in addition to a conducive start-up environment, tax incentives and funding, Tech entrepreneurs' critical requirement includes affordable access to the Internet for themselves and for their clients. The current debate on Net Neutrality and the future of the Internet in India has a direct bearing on this and tech start-ups.

In December last year, 9 prominent start-ups made it unequivocally clear to the TRAI that they were squarely against any attempt of Telcos to cabelize the internet. In an open letter, they stated:

“The open nature of the Internet has spurred innovation and enabled startups to flourish. The success of Google, Facebook or of several Indian startups, including those founded by the below signatories to this letter, is a result of the open nature of the Internet that permitted innovation without any entry barriers,”

I could not have put it better myself.

With over 300 million internet users and an expected 200 million more by 2017, the role of the internet and free & fair competition on it, is essential for the growth of tech start-ups to access this vast consumer base. The operative words here are ‘access’ and ‘fair competition’.

The Internet is increasingly transforming from being a connectivity medium to a valuable market place. Predictably, Telcos that control access to the Internet will try and creep and acquire control on parts of the Internet to gain part of that value. But in contrast, a start-up needs unfettered access to the Internet, without Telcos controlling and gatekeeping access to parts of the Internet in an anti-competitive

manner. If Government policy permitted this, it would in a sense negate all the pluses accruing from the Start-up India Action plan announced by the Government, as Start-ups would have to pay the Telcos an ‘access fee’ or get into some commercial arrangement whereby they pay the Telco to get ‘preferential access’ to their web content over others. This goes back to the threat I mentioned of having big corporates determine the fate of start-ups. If allowed to gatekeep and cabelize the Internet, Telcos would be playing God in determining success or failure of start-ups.

As it currently stands, Telcos remain the biggest threat to Net Neutrality, and therefore, Start Ups. The irony, however, is that these technological developments actually provide a huge opportunity for Telcos to boost their own revenues. The Internet of Things (IoT), an emerging area that Start Ups are sure to veer towards, for instance, offers avenues for telecom operators & system integrators to significantly boost their revenues. This, in fact, has resulted in their taking a lead in the offering of IoT-based services.

As someone who has spent more than a little time in this sector, disruption is the new normal in technology. By resisting this, Telcos are only defying the laws of gravity of the technology sector and trying to duck innovation and change.

On 21st January, TRAI is holding an ‘Open House Discussion’ on its Differential Pricing Consultation Paper. One point which I have repeatedly stated time and again is that Telcos should not be allowed to play the role of gatekeepers to the Internet. To do so would create an unconducive start-up environment for Tech entrepreneurs.

It is now up to the Government to ensure that the Net Neutrality principles are upheld and the Internet is left a free, open market-

place – for consumers, and for the thriving start-up community that it seeks to support.

So it's obvious that to make Start-up India successful, the Government also needs to focus on creating a policy and regulatory environment that allows them to function freely and fairly. In this case, perhaps even a specific legislation for Net Neutrality. The other broader challenge is the ability of Government departments and bureaucrats to deal with young, bright entrepreneurs which leads to another issue of creating capacity and capability within Government to deal with new ideas, businesses and technologies which it is obvious that Government is woefully underprepared and undermanned for - to even the kindest supporter of our bureaucracy.

The Government's policy too acknowledges the strong interdependence that Start-Ups have with technology. Last July, when the Digital India program was unveiled, Prime Minister Modi spoke at length about the need for the program to focus on innovation. The Prime Minister assured full support to young entrepreneurs who wished to launch Start-ups. I am fully convinced about and supportive of our PM's desire to unleash the potential of young India on to the world and into our economy. The Government's Startup India action plan is a big start to this. But a lot more still needs to be done to make this full and complete. It needs to focus on other policy and regulatory actions that are required to make Startup India a true, deep revolution for the youth in India and for a real boost to our economy and our global standing.

Telcos' Statements Will Earn Them More Consumer Distrust

Financial Express

14th January 2016

The Telecom regulator's most recent consultation on Differential Pricing for Data Services is one more chapter in the continuing struggle for internet consumer rights in general and Net Neutrality in particular.

While the debate on Net Neutrality has flourished and grown thanks to the internet activist community, I have repeatedly cautioned as this being hijacked by an anti- Facebook/Free Basics rant.

This rant against Free Basics has taken the focus of the debate away from where it ought to be – i.e. the Telcos. The Indian telecommunications sector is run by a limited number of players for years, a few Telcos have been dominating the Telecom space. While they are clearly a shining example of Indian private capital

building world class infrastructure, creating jobs, economic activity and contributing many thousands of crores to the Exchequer as revenue share and spectrum fees - at the same time this sector and its players have also created a remarkable trust deficit with consumers through their disregard for consumer rights – something clearly evidenced in the number of TRAI orders for QoS and Consumer Rights being challenged at various courts across the country.

In the most recent instance of this hara-kiri, Telco responses to the regulator's consultation are brazen and seemingly dismissive of principles dear to consumers of a fair and open Internet.

Any informed observer of the Net Neutrality debate will know that Telcos represent the most serious threat to Net Neutrality in India today. Their objective is to increase their returns (not in itself a bad objective) by increasing control and influence of the net itself, i.e. move from providing access to the net to influencing and controlling what consumers access on the net. This is what I call 'cabelization' of the Internet. What these submissions have proven, is that Telcos continue to care less causing distrust amongst consumers.

The "Level Playing Field" Grouse:

Take for instance, Bharti Airtel and Vodafone's persistent claim with the issue of "levelling the playing field". In several sections of both their submissions, they argue that commercially driven Differential Pricing strategies should be permitted, as this would simply be upholding the principle of "Same Service, Same Rules". Idea cellular takes this dubious argument a step further, and conveniently offers that Differential Pricing is a "legitimate business practice", by making a flawed interpretation of Section 11(2) of the TRAI Act.

They forget to mention that there is no similarity between services provided by Telcos i.e. providing access TO the Internet, and

services ON the internet i.e. applications and content that use these access pipes to provide innovative services. This is like comparing apples and oranges and saying they can be charged differently.

These can only be considered legitimate business practices if distorting the open and competitive nature of the Internet is deemed to be legitimate. Public policy cannot permit the cabelization of the internet, this will create a situation that even regulations cannot reverse in the future.

Dubious Claims Regarding “Societal Benefits”

When all else fails use the societal benefits card! One more ace in the pack of cards is Vodafone India’s claims with regard to the many “societal benefits” that Differential Pricing strategies shall deliver to society. It states,

“Differentiated pricing also has societal benefits, ensuring that communications and internet services are accessible, affordable and available. Differentiated pricing for data content expands participation in online content. Increasing internet access has been shown to increase productivity, support enterprise and innovation, increase employment and economic growth.”

Telcos have already earned significant distrust amongst consumers with their terrible track record on call drops and QoS. To expect consumers to blandly accept this, is to assume policy makers and/or consumers are ignorant!

The reality is that Differential Pricing which involves a commercial quid pro quo between Telcos and web entities will create significant distortions to the Internet and will create medium to long term problems for consumer choice and rights.

As a matter of fact, ‘societal benefits’ can only be delivered through regulation and policies that ensure a neutral Internet.

In fact, the recently released World Bank’s World Development

Report 2016 makes a case for net neutral options to increase access. It argues that in order to fully reap the digital age's benefits, the digital divide must be addressed by making access to the internet "universal, affordable, open, and safe" and "strengthening regulations that ensure competition among business, adapting workers' skills to the demands of the new economy, and fostering accountable institutions.

These two non-negotiable principles of Net Neutrality feature prominently in my own submission to TRAI, and it remains a mystery how Vodafone's submission missed making mention of some of these net neutral options, even as they extolled the virtues of "societal benefits"

The "Adequacy of Current Laws" Spiel:

Some Telcos have stated in their submission that the current regulatory regime has served to adequately protect the interest of consumers availing of telecom and internet based services.

Vodafone India states, for instance: "The competitive intensity of the market has resulted in largely self-regulatory mechanisms that have ensured the protection of consumer interests". Given that many of the TRAI's orders that seek to protect consumer rights are being challenged by various Telcos across different jurisdictions seeking self-regulation is akin to asking consumers to take a leap of faith into a known, deep and dark abyss.

The opposite is in fact true. There is a need for strengthening the TRAI Act because currently the law doesn't give it enough teeth to enforce consumer protection and rights and intervene in case of evidence of market or consumer distortion. There is also perhaps a need for a specific Net neutrality legislation and rules that are embedded into license conditions of Telcos to make compliance clearer and easier. I have argued this in my submission to the TRAI and have raised this in Parliament and with Government several times.

I have been both a Cellular Entrepreneur and also Chairman of Industry Association COAI. So I am sympathetic to the Industry's right to advocate a better deal and policy framework for itself. But I genuinely fear that in the process of doing that, they are forgetting that they are only one stakeholder in Telecom and Internet sector. Consumers are an important stake holder too and Telcos conducts and position that are adverse to consumers are exacerbating the growing distrust amongst consumers and policy makers.

Telcos must adapt to the disruptive changes that technological innovations are bringing to the commercial landscape. Policy and regulations must encourage Telcos to do this it is about time they came out from behind the all this double speak and stand up and front for what the consumers of India deserve – a Net Neutral Internet. Consumers of India will not settle for anything less.

Net Neutrality: Next steps

Economic Times

17th February 2016

Earlier this week, the Telecom Regulator TRAI pronounced its decision on Differential Tariffing – in simple speak – a big first step to Net neutrality. Almost as important as the content of the Order, was what it represented – the swinging of the pendulum towards the consumer after many years of extraordinary Regulatory influence by Telcos.

The Ban on differential pricing, however, is only part of the battle for Net neutrality. Because there remain other tricks in the Telcos' bag of Tricks that can still be deployed to discriminate and exercise control on the Internet – what I call the “cabelization” of the Internet. Tricks that include commercial deals that allow faster data speeds to some sites and slower to other sites, referred to as Slow/Fast lanes or Sponsored Data or Prioritization.

A natural question can be asked – why did the TRAI not handle all this together? I believe it is partly because TRAI’s powers in these areas are not foolproof under the law, unlike in Tariffing, where it has legislated powers to intervene and regulate. That, therefore, moves the ball to the court of the Government, where it either amends the TRAI Act, or gives TRAI more powers, or legislates a separate new Net neutrality legislation that has the power of law on all Telecom licensees. So while we celebrate what has been a decisive decision by the TRAI, the spotlight is now on the Government and Minister to take the remaining steps to meet what the consumers are demanding – Net Neutrality.

That brings us back to the TRAI’s recent Order. While we have welcomed what is clearly a maximalist position on Net neutrality, there are some troubling concerns that I do have with the Order.

Firstly, the characterization of the Minister that “it is an expression of popular will” is retrograde to the growth, development and credibility of the TRAI. The TRAI is supposed to be an independent regulatory institution, determining its regulations and orders on facts, data and carefully researched assumptions. The TRAI is definitely not supposed to simply blandly reflect or bend with the popular wind or shrillest public voice. That’s what politicians do and Parliament is supposed to do. In addition to the Minister’s unfortunate characterization of TRAI’s Order, the TRAI’s Explanatory Note also is weak in parts – especially on how it examines the evidence of Access and Affordability benefits linked to zero rating. It states:

“On the one hand, it may appear to make overall internet access more affordable by reducing costs of certain types of content and enabling people who have so far not been able to use internet services and content, to access at least part of the internet. This could have the benefit of expanding and accelerating internet access, as first-time. Users of the free internet could experience

its benefits and start paying for full access. On the other hand, differential tariffs result in classification of subscribers based on the content they want to access (those who want to access non-participating content will be charged at a higher rate than those who want to access participating content). This may potentially go against the principle of non-discriminatory tariff. Secondly, differential tariffs arguably disadvantage small content providers who may not be able to participate in such schemes. This may thus, create entry barriers and non-level playing field for these players stifling innovation.”

While it accepts that Zero rating ‘may’ have benefits, it weighs those pros against the cons of allowing this power to Telcos that may be misused to discriminate and cabelize. In balance, given the serious trust deficit that Telcos have created for themselves with policy makers and consumers, the TRAI’s cautionary approach at banning zero rating is what I would have also made if I was in his place. In contrast, if there was better trust with the Telcos, I would have suggested a trial period for Zero rating for the Regulator to observe and surveille its benefits and drawbacks.

This Order of the TRAI also brings the focus back to the role, functioning and capabilities in it, to be able to regulate this fast-changing, often disruptive technological space. The TRAI must stop being an episodic regulator – waking up from time to time only when consumers become shrill – Instead, a culture of surveillance and continuous regulation will put the TRAI ahead of the curve and be more active than reactive to consumer and Investor needs for policy and regulatory consistency and continuity.

So while there is reason to be pleased with this first policy action by the regulator under its new Chairman – there is plenty of work required for it to deliver world-class regulation and credibility. This, in turn, is required to attract the big, marquee, long term investors into the Digital India and Internet space that the

country requires to accelerate connecting the almost 800 million unconnected Indians. That remains a huge Government policy objective that has to be independently dealt with as we architect a net neutral Internet.

The ball is in Government's court now. In addition to completing the remaining parts of the Net Neutrality legal framework, the time is ripe for the Minister and Government to evolve a Magna Carta of Digital Consumer Rights for Indian citizens. This would include the Right to Privacy, a stringent regulatory framework to ensure adherence to Quality of Service norms and adequate competition within the sector. These issues, along with Net Neutrality, will have to feature topmost on the Government's action plan to accelerate Digital India and transform the unconnected Indian to Digital Indians.

Time For More Work On Privacy

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22nd March 2016

Last week, Parliament passed the Aadhaar (Targeted Delivery of Financial and Other Subsidies, Benefits and Services) Bill, 2016. The passage of the legislation aimed at creating legislative backing belatedly, for a program that has spent thousands of crores without debate or scrutiny, has predictably sparked debates about non-citizens availing public benefits and subsidies and the other important issue of Privacy. Given the NDA Government's focus on Governance efficiency and execution, I have no doubts that Aadhaar, in its new avatar as a subsidy delivery platform, will benefit our country greatly – it will plug leakages and improve the quality of life of our citizens.

Ironically, Political Parties like Congress that originated Aadhaar in its original form, and Left that remained silent through its

growth backed by thousands of Crores of taxpayer money, have woken up belatedly to this debate on Individual privacy rights.

The UPA's and its architects' complete disregard of the call for Privacy protections from various quarters, was what caused Aadhaar to land in the Supreme Court. Having been closely involved in the debate on Aadhaar and privacy, both as a legislator and an impleading petitioner in the Aadhaar matter in the Supreme Court, I can attest to the fact that the NDA Aadhaar is very different from the UPA Aadhaar in many ways – specifically on the issue of Privacy rights - starting with the acknowledgement by the Government that Privacy is a fundamental right. This is reflected in NDA's Aadhaar Bill 2016, with its substantively expanded sections on privacy and protection of information.

This significant progress in Privacy around Aadhaar has been welcomed by many - and in a case of heavy irony - including those who have paid short shrift to this in the last 5 years as Aadhaar was being rolled out. Ironic because my friend, Nandan Nilekeni, only in September last year, in an Op-Ed in the Indian Express (to which I wrote a counter), tried making a case that no privacy protection is required because the UPA Aadhaar, with its supposedly “federated architecture”, ensured “privacy by design”, and that the manner in which the system collated and stored data of citizens “hardly qualifies as a violation of their right to privacy”. He used this to question the Supreme Court's interim order that called for the limited use of Aadhaar due to privacy concerns. From that position to marking a new one on 9th March, Nandan has welcomed the privacy provisions in the NDA's Aadhaar bill and termed it as “unprecedented level for Indian law”.

Whilst I agree with his welcoming the NDA Aadhaar Bill's privacy provisions as a significant step from what his original discourse was, I am afraid that his position remains as it has been throughout the Aadhaar debate - one that is behind the curve on

both the architecture and Privacy aspects of Aadhaar. Because the reality is that while NDA has made big strides on privacy, there are still some ways to travel before Digital privacy is a reality for consumers in India.

Aadhaar's Reliance on Multiple Databases Points to the Need for a Privacy Legislation

The Aadhaar built by UPA was violative of the Citizenship Act, 1955 and also created a fait accompli with Illegal immigrants and non-citizens not being identified, and therefore, eligible for subsidies. To its credit, the NDA, which had inherited a poorly conceived Aadhaar and thousands of Crores of money spent, did exceedingly well to convert what was being pushed as a flawed National Identification program into a limited program that will exclusively deliver subsidies, benefits and services to enrollees.

This, however, as I had mentioned in my speech in Parliament, makes Aadhaar only useful if it works alongside many other databases for schemes such as Jan Dhan Yojana, LPG, Mobile, BPL etc. Since these databases are not covered under the privacy clauses of Aadhaar, a separate robust, overarching privacy legislation will be required to bring all allied government databases into its ambit.

Further, as I'd stated in Parliament, the inherent dangers arising from the centralized nature of the CIDR under Aadhaar cannot be ignored. A centralized database is inherently less secure and easier to intrude. In the past, Government has mishandled Aadhaar data. In 2013, the Maharashtra government admitted the loss of personal data of about 3 lakh applicants for Aadhaar cards. Experts recognize the inherent failings of a centralized system – they recognize the fact that information systems and databases with a central point of failure are inherently vulnerable because the possibility of failure exists.

The IT Act Needs Stronger Privacy Protections

Further, while the Aadhaar Bill, 2016 offers expanded Privacy Protections by invoking Section 43A of the IT Act, there is a need for this to be further bolstered. There is ample evidence in the public domain which points to how easy it is for Governments to get personal data out from entities that have no liabilities under any legislation. In a letter to the Minister of Communications & IT last year, I had urged for amendments to the IT Act – these include an expansion of the definition of sensitive personal data under Rule 3 of the sensitive personal data rules; the extension of data protection provisions to Government agencies, not for profits and others; correcting the flaws in the drafting of Section 72A; and aligning India’s Privacy Protection to international standards.

Further, the Cyber Appellate Tribunals meant to be constituted under the IT Act are currently inactive, and their constitution does not equip them with the kind of technical capacity needed to adjudicate these disputes.

Most will agree that these must be acted on as an urgent priority, in order for us to reach an “unprecedented level of protections for privacy”.

The Road Ahead: Government Must Initiate Multi-Stakeholder Consultations on a Privacy Law

I have argued for several years now that as India becomes more Digital under the PM’s visionary Digital India program – a corresponding set of Consumer rights needs to be developed to protect Digital Indians. Net neutrality, QoS, Security and Privacy are some of what needs to be in the Magna Carta of Digital India. So as we are evolving our Net neutrality legal framework, the Government too should start the debate on Privacy and evolve the legal framework for it. I was reassured in Parliament during the Aadhaar Bill debate by the Finance Minister that the Government

would look into this need for privacy legislation after the Hon'ble Supreme Court's decision. While we await the Court to take a view on the issue, the best course of action for the Government would be to initiate a multi-stakeholder consultation on the Right to Privacy, so that the views of various stakeholders, including security agencies, are taken into account while this legislation is being conceived and architected.

Let's Get A Discussion Started On Privacy

Financial Express

6th May 2016

It has been a year since Digital India was launched – triggering several transformative programs and investment flows into the tech sector. The program has captured the world's imagination and has rightly catapulted India into radars of most global technology players. But as more and more Indians go online and Internet starts wiring up the Government and Governance – there is somber silence on a very crucial element – Privacy.

The recent hacking of the Indian Railways website exposes the real and present risk posed when Governments collect and hold data. Separately, there's also underway a robust debate on individual and digital privacy, due to a multiplicity of events that have raised alarm. The debate triggered off globally with the Snowden revelations and is now taking baby steps here as people

start wrapping their heads around the threat that lack of privacy protection represents, especially after recent legislative and policy developments, i.e., the Aadhaar program (which holds sensitive biometric data of over 100 crore Indians) gaining legislative backing and the Government-appointed Additional Solicitor General raising many eyebrows, when he argued in the Supreme Court last year, that Privacy was not a fundamental right. These events happened parallel to the introduction of the Human DNA Profiling Bill, 2014 – which looks to create a DNA databank of Indian citizens.

As the Government takes India closer towards becoming a digitally empowered society and knowledge economy, the need for a robust and comprehensive Privacy legislation to protect the rights of citizens is imminent. The Railways hacking incident spotlights the real risks of a Government that collects data, but is not legally accountable to maintain that data respecting privacy of the data giver.

Recently in Parliament, I queried the Minister of Communications and Information Technology, on whether the Government recognized the need for a privacy legislation in India, given the various official databases of Government which collects, holds and uses information about citizens.

The Minister's response in writing was that the licensing conditions of Telecom Service Providers and certain sections of the IT Act already "adequately provide for the necessary safeguards to privacy."

This response made on the floor of Parliament is worrying, as it is largely inaccurate. Several leading experts have contended that the IT Act, with its limited data protection and privacy related provisions, does not provide for an all-encompassing, comprehensive legal framework for privacy and data security.

There are some glaring gaps in the existing privacy in the current legal data privacy protection framework as envisaged under the IT Act. These include:

1. Expansion of the Definition of Sensitive Personal Data under Rule 3 of the Sensitive Personal Data Rules: The categories of sensitive personal information, as identified in Rule 3 Privacy Rules (passwords, financial information, sexual orientation etc.) are too narrow, restrictive and inadequate. So other categories of information like mobile big data, M2M data, user behavior, etc. should also fall within the ambit of Sensitive Personal Data. Emails and chat logs as well as records of internet activity including online search histories are particularly vulnerable to abuse and misuse and should be accorded privacy protection.
2. Data Protection Provisions to extend to Government Agencies, Not-for Profits and others: Section 43A of the IT Act, which was quoted by the Ministry in its response to my question as a “protective provision” only covers the narrowly-defined ‘body corporates’ engaged in ‘commercial or professional activities’. Thus, government agencies and non-profit organizations are entirely excluded from the ambit of this section. This is a big hole given that Government is a significant if not the biggest custodian of data relating to citizens.
3. Flaws in the drafting of Section 72A of the IT Act: Section 72A, another provision quoted in the Ministry’s response, is a problematically worded provision – it requires that third parties or intermediaries can only be held liable if it is proven that they have made a violation “with the intent to cause or knowing that he is likely to cause wrongful loss or wrongful gain discloses, without the consent of the person concerned, or in breach of a lawful contract.”

This is a very flawed and broad test for privacy. It has to be much narrower – as in used for purposes other than that for which

data was collected or unauthorized collection of data. In early 2015, Airtel was exposed as collecting user browsing information unauthorized, as did MTNL - and as both cases showed us, this is exactly the defence that most errant parties have invoked in order to escape being pinned on violations of privacy.

4. Re-issue affordable standards that are equivalent to ISO/IEC 27001: The current standard prescribed by rule 8 (2) of the IT Rules, is the IS/ISO/IEC 27001 on “Information Technology - Security Techniques - Information Security Management System – Requirements.

To achieve ISO/IEC 27001 compliance and certification, the implementing body, must have access to the copy of the standard, which adds cost. The costs of implementing this prescribed standard are further inflated by the involved costs of literature and training, external assistance, technology, employees’ time and certification. This makes it beyond the reach of small and medium-sized Indian body corporates. In order to ensure adequate implementation of this, the Ministry should, along with the BIS, re-issue affordable standards that are equivalent to ISO/IEC 27001.

It’s clear that there is very little legal obligation placed on those who collect and use data – authorisedly or not. The Supreme Court has constituted a nine-member bench to examine the validity of the assertion that the Right to Privacy is a Constitutional Right under Article 21. The introduction of the Human DNA Profiling Bill in Parliament, which seeks to create a databank of DNA data of citizens is also an indication, that the Government needs to immediately and urgently review the need for a legislation guaranteeing Privacy of data to citizens. Most significantly, the Minister of State for Personnel, Public Grievances and Pensions has recently made a statement indicating that the Government is drafting a legislation that seeks to provide protection to individuals against breach of privacy through unlawful means.

This is a good opportunity for the Government to go beyond the foggy and ambiguous Telecom Ministry view to a holistic, all-encompassing Privacy Legislation that covers all aspects of Privacy – individual privacy, as well as data/digital privacy.

Last week, press reports indicated that 2014-15 has seen the largest number of incursions and hacks into Government websites. It's obvious that this lack of accountability to individual data poses a significant risk to the individual concerned. Privacy is a critical issue – as India leaps towards a new digital era, ensuring that a robust, overarching legislation on privacy is passed is absolutely necessary and will fortify the Prime Minister's vision for Digital India. Let's get a multi-stakeholder consultation on the Right to Privacy started.

Call Drops & Net Neutrality: TRAI Needs Reforms

Financial Express

8th June 2016

In May this year, the Supreme Court, in a strongly worded Order, struck down a TRAI regulation which required Telecom Service Providers (Telcos) to compensate consumers for call-drops by 1 Rupee per dropped call.

While acknowledging the scale of the problem posed by call-drops - faced by 900 million Indian consumers across the country – the Court found that the approach TRAI has taken in regulating Call Drops lacked transparency and was ‘...manifestly arbitrary and unreasonable.’ Justice Rohinton Nariman further observed that the regulation was ‘...framed without intelligent care and deliberation...’ This unfortunately puts the consumer in the same place on the issue as 2 years ago, leaving them to the mercy of Telcos.

The 99-page order cites several instances of this lack of ‘intelligent care and deliberation’ by TRAI in formulating the Call Drops regulation. The Court in one section, for instance, scrutinizes the compensation mechanism adopted by the regulator and points out how TRAI eventually contradicts itself in a technical paper published right after the Call Drops regulation was issued – acknowledging that 36.9% of call drops are due to the consumer, while at the same time implementing the compensatory mechanism placing 100% liability on Telcos. This data put out by the Regulator itself was surprising to many – and was equivalent to TRAI shooting itself in the foot in its efforts to regulate the vexed issue of poor network quality and Call Drops. As Justice Nariman rightly acknowledged, this is a classic case of “one hand of TRAI does not seem to know what the other hand is doing”.

This Call Drops Regulation of October 2015, came on the back of a huge strident campaign by consumer groups. It was the TRAI responding on behalf of the consumers for the first time in years, and so, was welcomed by all. But the holes in the regulation and TRAI’s own data showed that the TRAI’s belated wakeup to the cause of the consumer was a case of its performance flattering to deceive.

The Telecom sector is India’s best example of private sector Investment into Infrastructure, and in the last 2 decades, has transformed connectivity for almost a Billion Indians. In addition, the sector contributes significant revenues to the Exchequer in terms of revenue share and also spectrum auction receipts. The TRAI as an institution has played a role in the development of the sector thus far.

However in one very important area, the TRAI has failed– that of ensuring Consumers’ right to quality service by Telecom providers. All these years, the TRAI has either been silent on call quality and slow internet speeds or, as in the recent case, of an attempted Call

Drops regulation – been unsuccessful in ensuring Consumers are protected. It is worthwhile to note that the TRAI Act prescribes, in its Objectives “Protection of Consumer Interest” as one of the mandates of TRAI and further describes under Section 11(b)(5) “laying down and ensuring quality of service” - and so, the inability or unwillingness of the TRAI to enforce this needs examining.

Consumers are clearly unhappy with call quality aka Call Drops and slow internet speeds as a recently launched petition on change.org titled #NoSlowInternet reflects. For close to a decade now – after making the move from a Telecom entrepreneur to Member of Parliament, I have been urging (fighting!) in Parliament for an overarching framework for consumer rights in the technology and digital landscape. I have argued that what India needs is a Magna Carta for Digital Consumer Rights – i.e., a basket of consumer rights that include Net Neutrality, Privacy, strong Quality of Service norms, and free and fair competition on the internet. The key to ensuring this, apart from legislations, is also a strong, capable and accountable Regulator.

For several of the past many years that I have been raising this, Ministers and Regulators lacked the interest or will to do anything to protect the consumer – But Minister Ravi Shankar Prasad and TRAI Chairman RS Sharma have demonstrated that they desire to even the scale for the consumer and move regulation and policy making closer to consumers and away from the skewed Telco-controlled approach that was the norm for several years. This balance is critical to the success of the sector as a whole.

While for the most part TRAI has been negligent in past years, it is obvious from the recent failed attempt of the TRAI's Call Drops Regulation, that TRAI also suffers from lack of adequate powers to enact regulations that enforce Quality of service, except for termination of License. The Supreme Court Order also raises a broader issue about who is monitoring the TRAI and holding

it accountable for the quality of its work. There is a need for more accountability of the TRAI, which currently seems to be unaccountable for its performance and conduct to anybody. It is appropriate that the TRAI must be accountable to Parliament, and that would require the TRAI Act to be further amended.

The TRAI's performance on critical issues of today's Technology sector like Net Neutrality also exposes its weaknesses in capability and capacity to rapidly deal with these complex technology regulation challenges. For example, 18 months after it was first raised, TRAI continues to struggle with its consultation and regulatory process on Net Neutrality. The TRAI requires staff that are highly capable in regulatory, legal and economics, and instead, has to rely due to its budgetary and other limitations on a cadre of dedicated, but ill-equipped staff from the Department of Telecom and other Government Agencies. Faced as they are with big Corporates who employ the best and pay the highest, it's no surprise then that TRAI finds itself in difficulties - as in the recent regulatory challenges of Call Drops and Net Neutrality.

The TRAI Act was last amended materially in 2000 - more than a lifetime in the rapidly evolving technology space. The Technology and Telecom landscape has transformed dramatically in this last decade and a half.

In summary, the amendments to the TRAI Act that will help TRAI be a global standards regulator for a fast changing Technology sector will involve four distinct sets of amendments:

- a. More Powers to regulate and enforce Consumer Rights to Privacy, Quality of Service and Access.
- b. Accountability to Parliament.
- c. Enhanced capacity and capability with unfettered access to Talent, Human resources and enhanced financial budget, perhaps linked to percentage of Revenue share.

d. Financial Independence of the TRAI from the Department of Telecommunications/Government of India.

TRAI is attempting to regulate one of the most disruptive and rapidly changing sectors with a legislation that was enacted way before the current landscape emerged. There are many new challenges in this sector that were not foreseen at that time. There will be even more change and unforeseen technology and regulatory challenges in coming years. That in itself is a pressing argument for a complete relook at the TRAI Act, its scope, its powers, accountability and its remit to consumers and investors – to help evolve and grow TRAI into a global standards Independent Technology regulator, like the FCC and OFCOM of the US and UK, respectively. A global standards regulator and its work has a direct impact on Investor confidence, Investment flows and Consumer Rights and Protection

**Protect
Our
Children**

1

Rape Of Minor In Bangalore: Zero Tolerance For Paedophiles

Bangalore Mirror

20th July 2014

Crimes against children are the worst forms of cruelty, especially when perpetrated by adults because it violates basic trust and humanity. Crimes committed in schools are even worse because it violates the trust that parents and child repose in the school and teachers.

Since this recent crime was committed on the school premises, the incident points to a clear case of callousness on the part of the authorities. Therefore, criminal action must be initiated against the school authorities and management.

The government must institute a policy to ensure schools follow a rigorous verification process while hiring drivers, janitors and other support staff. It must conduct an inquiry into the due diligence currently employed by schools while hiring staff. Such an inquiry

can serve as an empirical basis to design suitable institutional procedures that schools must adhere to in order to prevent such incidents.

Effective prosecution in a crime such as this is of utmost importance. In order to ensure effective prosecution, the government must appoint an advocate of appropriate seniority and experience from the criminal side of the Bar as a Special Public Prosecutor. An unsuccessful prosecution would not only fail to vindicate the crime and the trauma of the victim and her parents, but will also erode the faith of an average citizen in the system.

More importantly, it's time the government creates a special child crime cell in police stations with personnel who are sensitized about crimes against children. There should be zero tolerance for all those who prey on children.

2

POCSO Act Needs More Teeth To Ensure Zero Tolerance Against Rising Instances Of Horrific Crimes Against Children

Deccan Chronicle

23rd July 2014

Crimes against children represent the worst forms of cruelty, especially because it violates the basic trust and care that a child expects from an adult. Two recent cases in Bangalore have caused an uproar and anger with thousands of parents coming out to the streets in protest against the school and the Government.

A few months ago, the parents of the first child contacted me for assistance. The child, a 2½ year old at an upscale school, had been molested by a school driver. The young parents atypically had decided not to be silent and hide, as is the case with most parents, but rather to ensure the attacker was brought to justice. Their silent and stoic determination to seek justice for their daughter and to ensure that the criminal was not allowed to revisit this on other children has inspired me, that day on, to join their battle and that of countless other parents.

While the Bangalore Police under the then Commissioner Auradkar, DCP Mohanty and IO ACP Soumya were superbly sensitive and put together an excellent case in a short time, the case - the first in our State to be tried under the Protection of Children Against Sexual Offences (POCSO) Act - has since languished in Court - suffering the fate of adjournments, despite the parents ensuring they had their own counsel to help the prosecution process and despite POCSO talking about Special Courts.

One of the shameful things about this has been the amazing lack of sensitivity amongst the Political leaders within the government including the Chief Minister and Home Minister. The insensitivity includes the famous quote of “The government is not responsible, but parents are.” That insensitivity of our political leadership is now even more obvious to all, after the recent rape of a 6-year old. It has taken these tragic and shameful instances for the Government to finally wake up from its slumber despite enough evidence of crimes against children all around them for a long time.

Two things I had requested from the Government that were never implemented - a) Arrest and Prosecution of the School Management; b) Setting of Special courts by Government.

If the first had been done, the message would have gone out to all the school managements about the seriousness of the Government and the subsequent crimes may have been averted.

The recent incident only reaffirms the need to make school managements responsible for children’s safety against this kind of crime in school premises (including the school bus). This also raises the question of regulation of schools and child safety within these schools.

While Section 28 of the POCSO Act designates Special Courts for the purposes of providing speedy trial in these cases, most states have not yet brought under regular courts, denying children

their right to a child- friendly system. There is in fact, only one such child-friendly court in the country, in the premises of the Karkarduma courts in New Delhi!

Pendency rates in cases relating to Child Sexual assault is over 84.5%! In a question I had raised in Parliament on the number of cases registered under POCSO and the number of convictions, it was alarming to note, as per the Minister's reply, that while the number of cases registered have risen from 7112 in 2011 to 12363 in 2013, the number of people convicted have only risen from 1196 in 2011 to 1611 in 2013! The failure to set up Special courts thus far is yet another instance of diluting the message of zero tolerance by delaying justice and conviction of the criminal.

While every such incident rightfully sparks outrage, a few months later, a similar incident prompts another post script- an analyses of "what we would have done". But the time has come for definitive change. We cannot go on in the hope that this blows over and that there is no other criminal, in any other school, who will perpetrate and commit another crime, on another innocent child.

The POCSO Act is a reasonably well drafted Act. While we have the necessary framework in place, what we lack, as is the case with a multitude of laws in the country, is the enforcement of the law. Child crime cells are required in Police stations to help in enforcement. Effective prosecution of crimes against children is important as poor prosecution would not just further increase the trauma of the victim and parents, but will also erode the faith in the justice system in the state.

In the interest of justice, POCSO Act needs the following changes to make it stronger and more effective:

1. As the Bangalore case has highlighted, one of the key amendments required is to ensure school managements are brought under the ambit of the law, and school management and teachers are made

accountable & responsible for safety of children in school premises under POCSO for any crimes committed in school premises/school bus and/or by school staff.

2. While the law mandates Special Public Prosecutors, they only remain on paper. Worst, an understaffed and overstretched judiciary means adjudicating Judges in most cases have no prior experience or expertise in dealing with such sensitive matters, forced to take on double charges on cases even as stark as dealing with economic offences in the morning and dealing with a Child Sexual Assault case later in the day! This lax approach must be remedied. Public prosecutors must create specialists in prosecuting these cases and the Prosecution of these cases must be in special fast track courts to ensure speedy trial & conviction of guilty.

3. While Section 32 of the POCSO Act provides that a Special Court shall complete the trial as far as possible within a period of one year from the date of taking cognizance, such a section is only directory and not mandatory. What we need is a specific, time bound system of justice delivery which makes it “mandatory” for Special Courts to complete trials in a year and not leave it to the recourse available under “speedy justice as far as possible”.

4. To send out a strong signal of Zero Tolerance, POCSO must also ensure that no person accused under POSCO is able to obtain anticipatory bail. Obtaining anticipatory bail allows perpetrators to circumvent or at least delay the judicial process.

5. A significant area for scope of improvement under POCSO would be instituting steps to ensure the safety of the victim. While POCSO provides for the recording of a child’s evidence within a period of 30 days, such a period is crucial and the victim/ family can be influenced or threatened to either withdraw the complaint or tone it down. An amendment to ensure that evidence is recorded on an emergent or immediate basis, within the first 24-48 hours would

ensure the victim is protected from any duress. Improvements to ensure a more holistic Act should also consider provisions for victims and witness protection as in several cases, other children may be witness to such offences and require protection for efficient prosecution and adjudication.

Our children need to be safe from the threat of Paedophiles. The POCSO Act needs amendments to make it stronger and serve to be the ultimate deterrent to the crimes and send a strong signal of Zero Tolerance, that crimes against children will be punished – swiftly and severely.

3

India vs Child Porn Is Still A Weak Battle

NDTV

1st September 2015

Last year, a spate of incidents of child sexual abuse were reported from prominent schools in my home city Bengaluru. When the parents of an abused child approached me for support, it was admittedly, my first contact with the issue from such close quarters. I realised shortly after my initial interventions on the issue with the authorities, that this was an issue that the Government knew and cared very little about – and that child sexual abuse was ubiquitous enough in our country for it to merit a closer examination by policymakers.

It was during this time that a Bengaluru based cop let me in on an anecdote that left me shaken – he told me about how the seized laptop of a serial offender was discovered to be completely packed with pornographic content – all of which apparently featured

children of Indian origin. I was unsettled by the disconcerting realisation that every single image on that computer involved the commission of an actual physical offence against an Indian child – a deeply worrying fact in the face of research that suggests that people who seek child pornography online could eventually go on to harm a child in real life, therein making the transition from a ‘content offence’ to a ‘contact offence’.

I attempted to question the Government on the issue of child pornography in the next several sessions of Parliament, but saw that several of my most pointed questions to the WCD did not make it to the ballot. I did learn though, that in response to a question in the Lok Sabha last year, the Women and Child Development Minister has resorted to the familiar trope of “no such data is maintained centrally” when asked about child pornography by a colleague. This answer, just like those my own questions have received over the last year by the WCD, underscores the indifference and apathy of the Government towards child sexual abuse – a form of terrorism perpetrated against young children.

A rather feeble and lazy attempt to address the problem was made earlier in August, when the Ministry of Communication and IT issued an order to Internet Service Providers asking them to ban 857 websites that were allegedly hosting pornographic content. What followed was an understandable outrage amongst citizens at this moral policing. The MOCIT was caught flatfooted, and forced to retract the ban. Shortly after, they issued an order that required ISPs to track and take down content that featured child pornography.

This was a move that unfortunately, only exposed the MOCITs lack of understanding of the technical capacity, resources and infrastructure required to tackle a crime as well-entrenched as child pornography. In relegating the responsibility of tracking and pulling down child pornography to the Internet Service Providers

– essentially “dead pipes” that have no control over content in the website, the authorities have committed a grave error. It is widely known that new websites can be created anytime and that content owners can change the content anytime without any control of the ISPs. The only way ISPs can pull down child pornography is by doing so manually – which evidently, is an onerous and completely unviable option.

Instead of passing the buck, the Government must make a concerted attempt at addressing the problem. This is a complex issue that requires enlisting the competencies of the WCD, Home and Communications and IT Ministries. It also requires investing in the resources and capital that will make identifying and arresting abusers a swift, real-time process.

The government must constitute an inter-ministerial group comprising of representatives from the Home Affairs, Women and Child Development and Communication and IT Ministries to arrive at a technology based solution to the problem of child pornography. This group must hold extensive consultations with all stakeholders and draft well-crafted roles for each group – including ISPs, the police, parents etc.

Cutting edge child porn tracking technologies are already widely in use in countries such as the United Kingdom, USA and Germany. One such technology is the Microsoft developed PhotoDNA software that Facebook uses to track illegal images among the several million images uploaded to the social network every day. Google too, is reportedly working to evolve a new technology which will, for the first time, allow internet search engines and other web firms to swap information about images of children being raped and abused.

Other issues also plague the system’s ability to respond effectively to the problem of child pornography. The Indian Penal Code, for instance, does not allow for filming children for pornographic

purposes to be covered under its provisions. This too, needs a re-look. There is also inadequate information about the extent of child abuse in the country. Barring a few sporadic studies, with limited scope, the attempt to understand the different forms and magnitude of child abuse across the country has been inadequate. The only information available annually is the crime data maintained by NCRB – and it is therefore no surprise that the WCD is often caught with its foot in the mouth every time an MP asks a pertinent question about child abuse. Data gaps are severely impeding our ability to comprehend and respond to the problem, and it is about time that the Government commissioned an exhaustive fact finding study into child sexual abuse and its preponderance. This is exactly the request I have made of the WCD in a letter to the Minister in June of this year – a correspondence I am yet to receive an acknowledgement for.

My hope is that the present NDA leadership shall take stock of the extent of the threat that India's 400 million are exposed to. It is lamentable that 60 years on since Independence, no Government so far has taken the actions necessary to Protect Our Children. This Government needs to adopt a Maximum Governance driven strategy to ensure the safety, well being and development of our children, and it is high time that the response to child sexual abuse transitions from being incident specific and reactive, to one that is institutional.

4

Child Sexual Abuse - How The Government Demonstrates Disinterest!

Catch News

13th October 2015

Earlier this month, a Delhi High Court judge stated that Child Sexual Abuse has reached “epidemic” proportions. This astute observation underscores the urgent need for Prime Minister Narendra Modi to commit to an actionable roadmap to end Child Sexual Abuse – which, incidentally, is the centre-point of my Change.org petition to the PM.

India has the shameful distinction of being home to the largest number of sexually abused children in the world. In a sample study conducted in 2007, the Ministry of Women and Child Development reported the following bewildering facts:

53% of all Indian children had been subject to some form of sexual abuse. Every 5th child is subjected to severe forms of sexual abuse which includes sexual assault, making the child fondle

private parts, making the child exhibit private body parts and being photographed in the nude.

Every 155th minute, a child below 16 years of age is raped in India and a child below 10 years of age is raped every 13th hour.

One would imagine, that these figures in themselves would inspire the Government and administrative machinery to spring into action. Lamentably, this has not been the case. Over the last year, I have asked the Ministry of Women and Child Development a series of Questions in Parliament on the issue of child sexual abuse. The responses I received to these exposed the indifference of Governments over the last 68 years, to the safety and well-being of our children.

Here are the worst 5 responses I received this year from the Ministry. While all of these had me very concerned, some made me very angry.

Who is in charge of India's Orphans?

In response to a question where I enquired about the number of orphans in India, the WCD Ministry responded to state that "no such data was centrally maintained"

A Human Rights Watch report suggests that Orphans are especially vulnerable to sexual assault, amongst other forms of abuse.

A study by SOS Children's Village India estimates that there are as many as 20 million orphans in India – which is as much as 4% of the country's population –almost double the population of my home city Bangalore! Orphans are listed in the Concurrent list of the Indian Constitution – which means that the WCD does have a responsibility towards orphans. In the light of these facts, it is dismaying that the WCD has washed its hands off protecting millions of vulnerable orphaned children.

WCD gets fined for double speak in Parliament and Supreme Court.

In July this year, in response to a question I raised on Missing Children, the WCD stated that “79,721 children have gone missing during 2013-2015”. However, the Ministry in its affidavit filed in the apex court shortly before, on 27 April, said that 25,834 kids went missing during 2013-15.

This discrepancy in the two figures reported is glaring, and also highlights the appalling casualness with which these questions are responded to. The Supreme Court in this instance, fined the Ministry of a sum of Rs 50,000. I am unsure, however, if this will in itself create a sea change in the attitude of the Ministry towards its responsibilities. In the meanwhile, India’s missing children continue to get trafficked, neglected and sexually abused.

WCD has NEVER reviewed the functioning of Women and Child Helplines:

Women and Child helplines are often the first point of contact for a distressed and abused child. It is self-evident that these helplines must functional well and be monitored effectively in order to serve their purpose.

In response to a question on the performance review of these helplines, I was told “the Ministry of Women and Child Development has not undertaken any study on the working of women and child help-lines.” Note that the child helpline, 1098, was set up in 1996, and has been functioning for almost two decades now without any Government having reviewed its effectiveness even once!

NCPCR a Paper Tiger, POCSO Poorly Implemented:

The WCD in response to my question in July revealed the following: Of the 6,816 alleged perpetrators booked under the POCSO Act, only 166 convictions have been made, whereas 389 accused have been acquitted. The conviction rate under the act, therefore, is a paltry 2.4%. The tragic corollary to this, is that pendency rates

for child rape cases have actually increased from 20594 in 2010 to 37519 in 2014 – a massive increase of about 84%

In short, The POCSO Act has so far been poorly implemented. One of the reasons for this is that the National Commission for the Protection of Child Rights, functioned for a year without a chairperson – despite my raising this with the Minister on the floor of the House on several occasions. The NCPCR is the statutory custodian of the Constitutional rights of children – it is amongst various things, charged with the implementation and monitoring of the POCSO Act. The NCPCR has thus failed our children.

This response to child sexual abuse needs to evolve from being incident specific and reactive, to being robust and responsive. This culture of apathy needs to come to an end.

Break This Deafening Silence, End Child Abuse: Govt Must Not Wait For The Next Incident To Commit To A Roadmap To End Child Sexual Abuse

NDTV

16th October 2015

A four year old girl was brutally assaulted by four adult men in the National Capital last week, in an incident that was reminiscent of the ghoulish 2013 gang-rape that had consumed the consciousness of the Nation. Blood curdling details emerged through the weekend the young girl sustained injuries in her intestines and her private parts, and is currently battling for her life in a hospital.

The incident, however, has hardly received the kind of widespread coverage and attention that the 2013 gangrape did – and something tells me that this has to do with the deafening silence we as society like to maintain about child sexual abuse. This is a malaise, which as a Delhi High Court judge recently said, is taking “epidemic” proportions in India.

Last week, when I'd tweeted about India being home to the largest number of sexually abused children, someone tweeted back telling me that I was unfairly brandishing India as a nation of child rapists. While that is hardly a moniker befitting a progressive nation, data unfortunately, tells us exactly that.

A 2007 sample study conducted by the Ministry of Women and Child Development reports the following disquieting facts:

- 53.22%, or every second child reported having faced one or more forms of sexual abuse.
- Out of the total child respondents, 20.90% were subjected to severe forms of sexual abuse that included sexual assault, making the child fondle private parts, making the child exhibit private body parts and being photographed in the nude. Out of these 57.30% were boys and 42.70% were girls. Over one fifth of these children faced more than three forms of sexual abuse.
- Out of the total child respondents, 50.76% were subjected to other forms of sexual abuse that included forcible kissing, sexual advances made during travel and marriages and exposure to pornographic materials. Out of these 53.07% were boys and 46.93% were girls. Over 50% of children faced more than two forms of sexual abuse
- 50% abuses are persons known to the child or in a position of trust and responsibility. Most children did not report the matter to anyone.
- Children on street, children at work and children in institutional care reported the highest incidence of sexual assault.

A major part of the problem is the lethargic institutional response to child sexual abuse – which is so far been limited to spurts of outrage in response to specific incidence. In a previous column for this portal, I had delineated some of worst responses I received from

the Ministry of women and child development, to my questions on child sexual abuse in Parliament. In this piece, however, I will outline that major gaps in the implementation of the well regarded Protection of Children from Sexual Offences Act, 2012 – a law which specifically deals with these incidents.

CURTAILED ACCESS:

Of the relatively few cases of child sexual abuse that are reported to the police, an even smaller proportion ever makes it through the justice system. The National Commission for Protection of Child Rights reported that in 2014, of a total of 6816 cases that were registered as FIRs under the POCSO Act only 555 made it to court. This is a dismal 8%.

Access to justice remains a big challenge in service provision chain. Many parents and caregivers, especially those with little access to resources, are dissuaded by the logistics and bureaucracy associated with negotiating POCSO courts.

JUSTICE DELAYED:

The special designated POCSO courts were constituted with the explicit purpose to “provide a speedy trial” for child sexual abuse cases. In fact, section 35 (2) of the Act, stipulates a period of one year from the date of taking cognisance of the incident, for the court to dispose off with the case.

Unfortunately, even cursory data on case disposal reported by the government, paints a discouraging picture of how well this intention has been actualized. In response to some of my Parliamentary Questions over the last two years, I have learnt that of the 6,816 alleged perpetrators booked under the POCSO Act, only 166 convictions have been made, while 389 accused have been acquitted. The conviction rate under the act, therefore, is a paltry 2.4%.

The tragic corollary to this, is that pendency rates for child rape cases have actually increased from 20594 in 2010 to 37519 in 2014 – a massive increase of about 84% This pendency persists in the face of increased reporting. While the judicial process dawdles along, eight cases of child sexual abuse continue to be reported everyday. The number of registered child rapes rose 151% from 5,484 in 2009 to 13,766 in 2014.

CHILD UNFRIENDLY COURTS:

An RTI reply furnished in response to a query by an advocate and now part of Delhi high court records, reveals that special courts set up to try crimes against children under POCSO are burdened with cases of human rights violations and cases under SEBI, MCOCA and TADA. “As per office records the court of ASJ-01 is functioning as children court/human rights court/drugs & cosmetics.”

An additional sessions court judge, hearing POCSO matters, had brought these facts to the attention of the court administration and very rightly mentions in her letter that “Many children come to court daily for deposition. It is not conducive and advisable to expose children to MCOCA accused who are brought to court in handcuffs and fetters,”

Further, provisions made to protect the privacy of the victim and witnesses, are being violated. The response to an RTI filed in 2013 in Jharkhand revealed that in many cases the victim’s name has been disclosed, despite the law does not allow it. Of the 85 cases filed in the state that year, the name of the victim has been disclosed in as many as 22 cases.

It is evident, therefore that the lack of capacity in institutions such as the police and judiciary is compromising the 11 laudable child friendly procedures outlined in the POCSO Act – and therein highlighting the glaring gaps in implementation.

Data and analysis apart, it is important for us to remember, that each such incident is eroding our children of their right to a safe, happy and healthy childhood. Unfortunately, despite comprising of over 40% of our population, children have remained a politically voiceless, vulnerable group that no government in the last 68 years has chosen to stand up for.

It is imperative for us as citizens to break the silence, and put an end to child sexual abuse. What can you do? For one, sign my [Change.org](https://www.change.org/p/rajeev-chandrasekhar-asks-prime-minister-narendra-modi-to-commit-to-a-roadmap-to-address-child-sexual-abuse) petition to Prime Minister Narendra Modi, asking him to commit to a roadmap to address child sexual abuse.

India's children deserve better. Let us not wait for the next incident.

6

World Day For The Prevention Of Child Abuse: Maximum Governance Required To End The Silence Around Child Sexual Abuse

Amar Ujala

14th November 2015

Imagine being a parent to a 3 year old and hearing that your child has been molested at school. Then having to struggle for months and years to get justice whilst at same time having to deal with the emotional and pyschological scars of your child. Two years ago, a brave mother who decided to fight for her child approached me and got me focussing on the issue of Child Sexual Abuse (CSA) – and through the process of helping them, the uphill task for a parent/child became obvious to me.

The first reaction I got was a State Minister’s “Its not our responsibility” - but soon it became clear to me that it was not just Government apathy but also discomfort and defensiveness people felt while talking about CSA. The responses ranged from believing that CSA was a “western” phenomenon to CSA being rare aberrations.

In a 2007 study, described as “The Conspiracy of Silence”, by the then Minister of Women and Child Development, disclosed some very disquieting facts. Of the children interviewed, more than half (53 percent) stated that they had been subjected to one or more forms of sexual abuse. Over 20 percent of those interviewed said they were subjected to severe forms of abuse, defined in the report as “sexual assault, making the child fondle private parts, making the child exhibit private body parts and being photographed in the nude.” Of those who said they were sexually abused, 57 percent were boys.

In 2005, Save the Children and the Tulir - Centre for Healing and Prevention of Child Sex Abuse, surveyed 2,211 Chennai based school-going children. As high as 15 percent of the children interviewed reported having experienced severe forms of abuse, defined in this study as “oral sex, sexual intercourse, making the child touch the offender’s private parts, or making the children take off their clothes and looking at them or taking their pictures.

These studies point to Child Sexual Abuse being prevalent and widespread a rather than exceptional. That in the last 68 years, no Government has sought to conduct a national study on this nor considered it important to institutionally address this comprehensively is a sign that - despite constituting over 30% of the country’s population that, we are letting our children down. Linked to this are related issues that remain ignored or with little Government oversight like child trafficking, missing children and poor regulation of orphanages which also have many cases of unreported abuse. There is little or no followup on numerous cases of Child trafficking that are wholesale cases of child abuse.

As someone who has first hand involved myself in following through three specific cases in my city Bengaluru, I can say that the need to do more is undeniable. The role of the Government in ensuring the protection of children needs more examination –

What do the institutions mandated to protect our children do to monitor CSA and prevent abuse? How does the system respond when it receives an allegation of abuse and how does it treat victims after they are abused?

We do have a law! It's called Protection of Children from Sexual Offences act (POCSO). And like many of our laws, this one too is neither achieving its objectives nor has there been any debate about its effectiveness. While the POCSO Act provides for a detailed list of procedures mandated to be followed by different stakeholders in the response system, the gaps in implementation have been glaring and causing harm to lives of many children.

A 2013 report by Human Rights Watch (HRW) suggests that there is considerable inconsistency in the way three pivotal stakeholders the police, doctors, and the courts in different parts of the country respond to cases of abuse. The police, the primary point of contact for an abused child, is highly short staffed, and lacks the specialized training and psychological competencies to handle these cases in a sensitive manner of these cases

As a result, police stations remain hostile and intimidating spaces, which dissuade Parents or children from pursuing cases. Special Child crime Units are required in every Police jurisdiction.

Post assault medical examinations by Government hospitals are yet another weak link in the systemic response. In 2012, a three year old girl from Bangalore was subject to tests used for raped women. The HRW Report suggests that doctors approach such cases with the view to simply collect evidence, rather than assist in the healing and recovery of the child, and that this adds to the trauma of victims and parents

The Courts too, are lethargic in disposing off of cases of child sexual abuse, despite POCSO mandating trials within a period of one year. Through my questions in Parliament I learnt that of the

6,816 alleged perpetrators booked under the POCSO Act, only 166 convictions have been made, while 389 accused have been acquitted. The conviction rate under the Act is a paltry 2.4%.

The tragic corollary to this is that pendency rates for child rape cases have actually increased from 20594 in 2010 to 37519 in 2014 a huge increase of about 84%. While the judicial process dawdles along, eight cases of child sexual abuse continue to be reported everyday. The number of registered child rapes rose 151% from 5,484 in 2009 to 13,766 in 2014. This combination of slow trials, low conviction along with lack of child sexual offenders registry means that offenders are free to continue to live or work amongst children where they offend again, given the repeat offence nature of such criminals.

Sexual abuse leaves deeply destructive effects on the psyche of a child – and will only contribute to sustaining the pernicious cycle of abuse. While there is considerable awareness about child rights for our 430 million children including focussed programs and resources on important issues like health, education, girl child rights etc, we have not done enough to protect them from abuse. This is an issue that needs to be openly acknowledged by the political leadership. This is why I have started a change.org petition requesting Prime Minister Modi to make this a priority of his Maximum Governance agenda. Our children are the losers with this denial and apathy. Without question, India's children deserve better. Today, on the World Day for the Prevention of Child Abuse, I am hoping that we can collectively wake up to our responsibility to ensure a safer childhood for Children of India.

Victim And Child Rights Must Be Protected Government Must Not Stop With Passing Of This Bill And Must Take Actions To Keep Women And Children Safer

Kannada Prabha

24th December 2015

The Juvenile Justice (Care and Protection) Bill, 2013 was passed yesterday in Parliament. This is an important legislation, that needed to have been discussed and passed much earlier than it was - without having to subject the parents of Jyoti Singh Panday to the harassment and insensitivity they were subject to, over the weekend. That would have shown Parliament as being responsible and responsive. But I suppose, this is better late than never.

This recent release of the Juvenile accused in the brutal murder of Jyoti Singh Panday, spotlighted a grave lacunae in our criminal justice system that lets juveniles committing violent crimes go scot free – putting a spotlight on justice and victims' rights. A desire for justice should not be seen as Vengeance. This bill is addressing women victim rights.

Why the Need for the Bill was felt:

Data on juvenile crimes reported by the NCRB is staggering. It reports that there has been a 143 per cent increase in the number of rapes committed by juveniles between 2002 to 2012.

In the same period, figures for murders committed by minors went up by 87 per cent and a whopping 500 per cent increase was noted in the number of kidnappings of women and girls by minors. Last tuesday the Minister informed Lok Sabha abt 50.6 % increase in Juvenile Crimes. And 42% increase in Arrests.

Significantly, the percentage of violent crimes registered against juveniles in 2012 was about 15.6 per cent of total IPC crimes committed by juveniles in 2012 of which murder (990) and rape (1,175) constituted only 7.7 per cent of total IPC crimes committed by juveniles (27,936). This clearly indicates that violent crimes, such as murder and rape, constituted a sizeable proportion of the crimes registered against juveniles.

Since the tragic and brutal murder of Jyoti singh it has become clear that the people of India are calling for Parliament to review the law pertaining to violent crimes committed by Juveniles. In the light of the data I quoted earlier, it is certain that some deterrent may be required to prevent the alarming pace of increase in these crimes. In light of these shocking facts, i am in full support of the principle behind section 15 of the Bill, which requires that Juveniles above the age of 16, who have been accused of heinous offences, be assessed for their maturity and understanding of the consequences of their criminal actions.

There are two important points about the Bill:

Justice for victims is important and However, at the same time we must protect, the Constitutional Rights of juveniles to due process and make sure wrong juveniles are not thrown into criminal justice system

As far as our Constitutional Principles are concerned, a child is a child. Under Chapter 1 sec 2(33) the definition of heinous offences is too broad. This is a vital definition because this definition is what flings a juvenile into our criminal justice system. It is too broad and vague. The definition of heinous offences must be explicit. I urge the minister to make explicit the definition of heinous offences and not link it to all crimes with a certain prison term. Let heinous offence be defined as Murder, Rape, terrorism, trafficking. On this clarity hinges our decision to treat a child as an adult.

I agree that clause 82 that penalizes child traffickers with lower punishment than those who supply intoxication to children needs correction. Child trafficking is widespread and needs cracking down on. The punishment in clause 82 must be more than that of clause 78.

On the mechanism Proposed by the JJ Bill requires a re-look today or at least sometime soon. We must not lose sight of fact that many of these children committing crimes or being accessories to crime between 16-18 will be poor backgrounds and not able to defend themselves through a complex and long process. Given the importance of JJB and CWC to the child's custody and prosecution, genuine fears of extortion of families have arisen. The robustness of the mechanism that the Juvenile Justice Act will prescribe to determine whether a child must be tried as an adult or as a juvenile, is something that needs further study.

Section 15 of the bill, which deals with the preliminary enquiry conducted by the Board, is of immediate relevance. The section prescribes that the "Juvenile Justice Board shall conduct a preliminary assessment with regard to a Juvenile's mental and physical capacity to commit such offence, ability to understand the consequences of the offence and the circumstances in which he allegedly committed the offence."

The provision further suggests that the Board “may take the assistance of experienced psychologists or psycho-social workers or other experts” in making this assessment.

JJ Bill is critical to Juveniles Rights

JJ Bill is critical to the Juveniles rights. The Bill will assess whether a child alleged to have committed a heinous offence, has the physical and mental capability to commit the offense, and also the ‘circumstances in which he allegedly committed the offence’. In order to protect our children, we must ensure that this mechanism is as fool-proof as possible.

We must recognize that this law is merely suggesting that the Board consult with “experienced psychologists and psycho-social workers” for its Preliminary Assessment. The composition of the Board, as defined by Section 4(2) of the Bill comprises of a Magistrate and two social workers, including a woman. It loosely states some generic criterion for the selection of members, which is as follows: “the members must be involved in health, education, or welfare activities pertaining to children for atleast seven years or a practicing professional with a degree in child psychology, psychiatry, sociology or law”

This is vague in terms of capacity and capability that is being sought to be created, given the fact that the Board holds the powers conferred by the Code of Criminal Procedure, 1973, and in essence, plays God on the future of a Juvenile produced before it. It may be fraught with an ad hoc ness that may condemn far more children to the adult criminal justice system than it ought to. There are many other issues that will need improving in the process leading from JJB to courts.

It therefore, becomes imperative that the procedure prescribed by law is water-tight and immune to influences as well capacity and capabilities within institution, so that the constitutional right of

children to equality, liberty and special protections under Articles 14, 21 and 15 (3) of the Constitution is protected.

Now that the Legislation has been passed, the Minister must focus on implementation. The need of the hour is improving capacities and capabilities in Child Welfare Commission Juvenile Justice Board and child courts. The government must take the initiative to Creating a Cadre of Trained and Certified JJB Magistrates , Child psychologists and other staff specially trained and certified to be equipped with the skills to make this complex assessment.

I hope the Government does not stop with passing of this Bill and focusses on many actions required to keep women and children of our country much safer than they are now.

**Serving
Our
Nation**

1

India's War Memorial: Seal The Deal

Business Standard

23rd March 2010

Amongst the many issues that scar relations between India's military and its civilian overseers —pay scales and pensions; the failure to buy adequate weaponry; and the military's marginalisation in framing security policy, to name a few — the most easily resolved is the military's long-standing demand for a national war memorial to honour the 20,000 soldiers, sailors and airmen who have sacrificed their lives while defending independent India. A broad section of the urban public echoes this plea.

The demand is for a prominent memorial on New Delhi's Central Vista, which can be visited freely by the Indian public, and where wreathes can be offered by national leaders on occasions like the Re-public Day, and by visiting foreign dignitaries who choose to do so. The current memorial, the Amar Jawan Jyoti, is merely

an add-on to the India Gate, an imposing 42-metre high British structure, built in 1921, to honour the 90,000 Indian soldiers who died in the First World War.

The irony is evident: the British exalted the memory of Indians who died for the empire; but India finds it bothersome to suitably commemorate those who fell in service of the republic.

Anyone who has travelled along India's borders with China and Pakistan cannot have missed the lonely memorials at the places where Indian troops fought and died. Among the most stirring is the stark monument to Major Shaitan Singh and his 111 Kumaoni soldiers who battled to the last, holding up a major Chinese advance on the desolate, windswept plateau of Chushul. This Indian hero, a winner of the Param Vir Chakra, is honoured only in that unvisited war memorial near Chushul. No national memorial is inscribed with the name of Major Shaitan Singh.

The proposal for a "National War Memorial", as I accidentally discovered in the Assam state archives in Guwahati, pre-dates independent India. A confidential memo, issued on March 3, 1945, from the War Department New Delhi (in File No, 110-045, entitled "Indian National War Memorial". in the Governor's Secretariat, Confidential Branch) declares that the Government of India (Gal) has been examining "the question of the form that an Indian National War Memorial) should take". The memo orders that "the establishment of a Military Academy on the lines of the United States Military Academy at West Point for the education and basic training together of future officers of the Royal Indian Navy, the Indian Army and the Indian Air Force would be the most suitable form for the memorial to take".

In short, New Delhi proposed that what was to become the famous National Defence Academy (NDA), which is still the bedrock of Indian officer training, would also serve as India's National War Memorial.

The British government of India further proposed that “funds for the academy would be provided by public subscription and supplemented by the state”. It urged all provincial governments (as state governments were then called) to support the scheme, establish scholarships, encourage the public to contribute, and to not set up any other war memorials so that the support of the public “maybe concentrated on the all-India (war memorial)”, Shortly afterwards, as the Second World War hurtled towards its denouement in Hiroshima and Nagasaki, the War Department in New Delhi directed (vide memo No. E65/451W 1, dated June 15, 1945) that the construction of the academy be financed from a gift of 100,000 pounds, received from the Government of Sudan in gratitude for the Indian Army’s role in freeing Sudan from Italian occupation.

An Indian National War Memorial Working Committee was quickly constituted, which sent out a questionnaire to the provinces asking for their views on a range of subjects, including the setting up of feeder schools for the pro-posed academy-cum-war memorial. The questionnaire asked, keeping in mind the “urgent need in India for leaders in all walks of life, including the fighting services”, should “practical steps not be taken to meet the requirement of the immediate future by the establishment of a certain number of residential high schools”.

Today, 65 years later, the military community, especially officers from the NDA, will recognise that these proposals have been implemented in full The Sudan Block, a magnificent basalt and granite structure, topped with a Jodhpur red sandstone dome, is the central edifice around which the academy stands. Generations of cadets, it hiding this columnist, have dozed restfully through lectures in the Sudan Block’s: cool classrooms. Many of those cadets entered the NDA from 19 Sainik Schools across the country, the network of “feeder schools” proposed in 1945.

Lost along the way, fortuitously, is the proposal for the NDA to constitute India's National War Memorial. A training academy is a living organism that shapes the leaders of tomorrow; bursting with life, it is ill-suited to be a sombre memorial. Today, with the government unwilling to concede the space for a memorial on New Delhi's Central Vista, Karnataka MP Rajeev Chandrasekhar, has suggested a Vietnam Wall-style memorial, inscribed with the names of India's fallen soldiers, on a 50-60 acre site alongside Mahatma Gandhi's memorial at Rajghat. The design, which Chandrasekhar submitted to the prime minister last week, includes an eternal flame, a 24x7 ceremonial military guard, a memorial wall, a martyrs' museum, and large, landscaped areas that would allow schoolchildren and other visitors a pleasant day at the memorial. If the army wants the country to know about and to remember its sacrifices, this is the way to do it.

2

Don't Let Kargil Memories Fade

Asian Age

26th July 2012

Every country has its historical moments, moments when it rises to demonstrate its true character and mettle. July 26, 1999, was one such day when, faced with a sudden and unprovoked attack against the backdrop of peace talks, Indians from all walks of life united in their support for the brave men and women of our armed forces as they fought to first beat off the intruders, and then to win a proud victory.

We had a collective lump in our throats as we heard and read reports of what Lt. Saurabh Kalia and five other soldiers on patrol had to endure in Pakistan's captivity; our tears welled up when we heard stories of bravery and duty to the nation exemplified by men like Lt. Col. Vishwanathan, Capt. Vikram Batra, Lt. Vijayant Thapar, Lt. Hanifuddin, Major Sonam Wangchuk, Rifleman Yogendra

Yadav, Lance Naik Ghulam Mohammed Khan, Lt. Neikezhakuo Kenguruse, Squadron Leader Ajay Ahuja and so many others who represent the diversity of India and the grit and determination of India and its soldiers to defend India's people and territory.

Thirteen years on memories have begun to fade, as they do for all historic events. But these men and their families gave up their tomorrows for our today, and that's why it is important that we remember them and keep alive those memories of sacrifice and duty. In an atmosphere of corruption and malgovernance, when cynicism about the government is all around, today is a day to grab those memories and names from the hazy mist of the past and feel proud knowing that these tall men and women once stood amongst us, and died for us.

While there is much to remember and thank these brave men and women and their families for, as a nation we have much less to be proud of. Our commitment to the men and women of armed forces and their families is at best opportunistic. All these years later, as a citizenry, we are yet to build a National Military Memorial to honour their sacrifices even as we fritter away precious money on monuments to politicians and other symbols of excess and waste.

We still tolerate the sight of proud veterans of our armed forces returning their gallantry medals as a mark of a silent and dignified protest against the government's apathy to their One Rank, One Pension demand. If not ungrateful, we have surely been delinquent in our duty towards them. And deliberately or through ignorance, we are diluting the sense of duty and service that personified the armed forces all these decades, and are, therefore, not attracting the next generation of heroes and defenders. I often quote to people in government and bureaucracy the famous line by Kautilya: "The day the soldier has to demand his dues will be a sad day for Magadha. For that day on, you will have lost all moral sanction to be King".

The relationship between us, civilians, and the armed forces needs a relook. For too long our politicians and bureaucrats have held sway over this relationship. They are managing it callously at best. But as we will seek the next generation of young men and women to risk their life and limb again and again in the future, we need to establish a broader relationship that will encourage and rekindle a sense of loyalty and duty that makes men and women proud to serve in the armed forces.

The British Parliament passed an Armed Forces Covenant, which is a form of a contract between the people of UK and their armed forces whereby an assurance is given that the families and personnel of the armed forces will be cared for by the people of UK. I have introduced a similar bill in our Parliament and it is awaiting discussion. I hope that it is passed and that it promotes a new relationship between the people of India and its armed forces.

In the recent past, our heroes have tended to be cricketers, filmstars and, of course, political scions. Be that as it may, today is a good day for parents to take their children to a military memorial or even read out the story of the life of one of these brave sons of India. Let the children hear stories about Capt. Amol Kalia, Major Padmapani Acharya, Rifleman Satbir Singh, Lance Naik Satpal Singh, Havaldar Rajbir Singh and all the others from India's small towns and villages who went to battle for us and left behind sorrowful families to cope on their own. Let these stories inspire a new generation of Indians as dedicated to this nation as the ones that we have lost.

And to the memories of these brave sons, let us bow our heads, say a prayer and salute them as a thank you.

3

India Commemorates Vijay Diwas: Don't Let Down Our Heroes

Mail Online India

18th Decemner 2012

December 16, Vijay Diwas date is not just about military victory and defeat; it is about principles and idealism.

In many senses, December 16, Vijay Diwas, commemorated the anniversary of an event that makes Indians believe the best in themselves. On the surface, this is the date in 1971 on which the War ended in Dhaka and the Pakistani army surrendered. That surrender of 93,000 troops marked the most comprehensive military triumph anywhere since World War II. Yet, the date is not just about military victory and defeat; it is about principles and idealism, and the prism through which India sees itself - of a democracy prevailing over a dictatorship. In the late 1960s and in 1970-71, the Punjabi establishment in Pakistan began brutalising its Bengali compatriots.

General Tikka Khan, the martial law administrator of East Pakistan, was so ruthless and so infamous that he was nicknamed the “Butcher of Bangladesh”. Even so, due to Cold War exigencies, alliances with the generals in Rawalpindi or sheer apathy for poor, deprived people without a voice, the world didn’t care.

When others with more resources turned a blind eye, India stood up ramrod straight. It provided a generous home to millions of refugees. Finally, its soldiers went to battle to liberate a nation crying for freedom. India stood up for what it felt was right, never mind if it stood alone.

War Do consider the India that did this - a country led by a woman; a defence minister who was a Dalit and a first-generation achiever after centuries of prejudice; and an army that achieved a remarkable turnaround from a humiliating defeat only a decade earlier. The army leadership was almost cosmic in its configuration. The soldiers belonged to all communities and all regions of India. The principal generals were a Parsee, a Sikh and a Jew: three resolute men, each a legend in his own right.

Indeed, the selflessness, innovation and calibrated risk-taking that Field Marshal Sam Manekshaw, Lt. General Jagjit Singh Aurora and, in the killing swamps as we approached Dhaka, Lt General J. F. R. Jacob accomplished, remains a rich legacy.

It offers lessons not just in military strategy, but as a model of leadership in all areas of public life. The men they led responded valiantly. Take two examples, from different corners of India.

Lance Naik Albert Ekka was born in a village near Ranchi, part of a Christian Oraon family. What was the higher calling, the supreme motivation that propelled him to fight to the last and sacrifice his life in the Battle of Gangasagar, deep in Bangladesh? I have often wondered, even marvelled at the story of Albert Ekka of the 14 Guards Regiment - or that of Second Lieutenant Arun Khetarpal,

17 Poona Horse, son of a Brigadier and descended from a soldier in Maharaja Ranjit Singh's army, but just 21 when he found himself surrounded by enemy tanks at the Battle of Basantar.

Left bereft of support, this young lion refused to turn back. He died in his tank, but ensured India won the day. Flag. Off. Nirmal Jit Sekhon, 18 Sqn, the brave Sikh who, while flying a subsonic Gnat, out-dueled the much faster F-86 Sabres attacking Srinagar. All three men won the Param Vir Chakra, three among the four awarded in 1971. Soldiers fight the battles and win the war; and then the politician comes along and claims the victory. This is so true in our country, where every national achievement is sought to be politicised and appropriated by one party or another. In truth, Vijay Diwas belongs to the Indian soldier; it is a grateful nation's moment of thanksgiving to those who secure its today without thinking of their tomorrow.

PoWs How do we treat these brave men and, increasingly, women? It is believed at least 54 Indian soldiers still remain in Pakistan as prisoners of war (PoWs) from 1971. Occasionally, one hears stories of their families or of one of the soldiers themselves smuggling out a letter or being seen by somebody. It is wrenching, and utterly shameful. These are our heroes, they should be brought home with honour.

On December 23, 2011, following a petition spearheaded by Lt General Aurora, the Gujarat High Court ordered the government to approach the International Court of Justice (ICJ) to secure the release of these PoWs. A year has passed.

In the Monsoon Session of Parliament, I asked the Minister of Defence if there had been any progress. The answer astounded me. The part of the judgement relating to approaching the ICJ had been stayed by the Supreme Court.

The stay had come following an appeal against the Gujarat High Court's order by the Union government. It did not want the ICJ to intervene in disputes related to Commonwealth members or armed conflict. That is where the fate of 54 Indian war veterans now lies: in a legal cul-de-sac.

Saurabh Kalia The issue has continued to haunt me, as well as some like-minded friends. When news came of the family of Kargil hero Captain Saurabh Kalia's lonely and heart-rending fight for justice, I was determined to do something, to send a message to the family of Captain Kalia that it was not alone, that we citizens cared for and cherished our soldiers and their sacrifices. Thirteen years have passed and the government has been unable or unwilling to take up the issue of Captain Kalia's torture and murder with due authorities. Never mind if the government supports our soldiers or otherwise, the people and the nation are behind them and must demonstrate this. It is a solemn commitment we have given to Captain Kalia and his memory, and to every soldier who has worn a uniform for India.

That is why on December 7, 2012, along with Captain Kalia's family and the Flag of Honours Foundation, an organisation dedicated to building ceaseless engagement between society and the families of our martyrs, I supported a petition to the UN Human Rights Commission (UNHRC). We have sought justice for Captain Kalia and urged the UNHRC to pressure Pakistan to investigate and account for what was patently a war crime. This is the least we can do.

From the Valhalla of Heroes where he no doubt is, Captain Saurabh Kalia will be looking down at us with expectations, as will Flying Officer Nirmaljit Sekhon, Second Lieutenant Arun Khetrapal and Lance Naik Albert Ekka and countless others who have fought, bled and died for India. We must resolve not to let them down.

4

The Kargils That Go Unnoticed

Indiatoday.in

26th July 2013

Kargil Vijay Diwas is upon us. It is a day of remembrance for and tribute to our armed forces and to the gallant soldiers whose determined efforts saved our country against the enemy on this day in 1999. Many lives and limbs were sacrificed to achieve this, and many families lost their loved ones. We can never forget this.

This year, Kargil Vijay Diwas comes in the wake of the devastating floods in Uttarakhand and Assam. As on countless previous occasions, when our nation and our people have been faced with calamities, our men and women in uniform have magnificently risen to the challenge of saving and protecting our fellow citizens. They have ignored risks and perils to themselves - costing India the life of Wing Commander Darryl Castellino and his crew of 20 in a Mi-17 helicopter that had flown unrelentingly to save, rescue and evacuate hundreds of people in Uttarakhand.

Remembrance

The rescue operations involved an entire gamut of planes and helicopters of the Indian Air Force (IAF), including the C130J, the Mi-17V5 and the ALH. This was the largest such operation in the IAF's history. In Uttarakhand alone, the IAF has airlifted a total of 18,424 persons to safety. It has already flown 2,137 sorties and dropped or Landed 336,930 kg of relief material and equipment. This has been a colossal task, executed with discipline that is the hallmark of our armed forces. It has made the nation proud.

This commitment of the armed forces was underlined by Air Chief Marshal N.A.K. Browne; "Our helicopter rotors will not stop churning till such time we get, each one of you out. Do not lose hope." This statement underlines the ethos of India's armed forces. The IAF continued its operations in the face of great tragedy. The Army, along with some paramilitary units, played an equally significant role with thousands of soldiers working through treacherous weather and geography to reach those stranded. It was an unprecedented search and rescue and logistical effort.

This day is therefore a Remembrance Day for all the men and women, and their families, who show us every day what real service to the nation is about. It is a day when we take a minute and say thanks to these guardians of our security and lives. As was reported, one of the rescued persons in Uttarakhand was moved to say, "Bhagwan aaye hain wardi mein" - God came to save us in uniform.

The nation is grateful to the armed forces; the political class would do well to appreciate this groundswell of gratitude. It is critical initiatives are undertaken that go beyond words. It is time concerns of the armed forces were brought out of sub-committees and files and onto the political agenda.

This is also a day when the citizen needs to sign a covenant with the armed forces. The citizen is grateful to the armed forces. and

like in countries such as the United Kingdom, must step forth in different forums, including the Internet, to express solidarity. The citizen is a force for change and he or she through a covenant, can express his or her commitment to the armed forces.

The issues that trouble the armed forces are well known. They are simple and coherent demands and require political will for implementation. As I have suggested several times, it is important to incentivise private sector companies to employ those armed forces personnel who are discharged in their 40s. In May 2013, I had taken this up in Parliament where I had raised the question of whether the Government would consider granting tax incentives/concessions to companies that agreed to hire retired or released armed forces veterans. In this regard, I have written to the Minister of Defence as well as the Finance Minister.

This is a win-win proposal for both the armed forces and the private sector. The Government has responded by stating in bland bureaucratese that “presently no such scheme exists”. But this must be taken up meaningfully — and it will be if the people of our country start demanding it.

Justice

Similarly, the long pending issue of One Rank One Pension for the armed forces must be implemented forthwith. This must be done on the Lines of the Sixth Pay Commission, as was accepted originally by the Cabinet, and with six per cent interest for the delay in implementation. This will go a long way in addressing a core concern of retired armed forces personnel.

On this day, we must once again reinforce the fight for justice for our martyrs. It Is the perfect opportunity for the government to approach international courts as well as confront Pakistan over the torture and killing of Captain Saurabh Kalia and five other soldiers during the Kargil War. We must pursue with Pakistan the

issue of 54 missing war heroes from 1971. Their families have not yet found closure. Some of these families, like that of Flight Lieutenant Vijay Vasant Tambe, have lived tragic, poignant lives for decades.

Tribute

General George S. Patton, one of history's greatest commanders, once said "The soldier is the army. No army is better than its soldiers. The soldier is also a citizen. In fact, the highest obligation and privilege of citizenship is that of bearing arms for one's country." That is a stirring sentiment, one India must honour. There can be no better day to make a beginning on this front than Kargil Vijay Diwas.

As such, it is important that all of us in our own way get out of our comfort zones and remember the bravery and sacrifices of the Indian soldier. Make this a day of remembrance. If you are in Bangalore, go and visit the National Military Memorial to pay your tribute to the soldiers who gave their tomorrow for your today. If you are in New Delhi, visit the eternal flame of the Unknown Soldier and leave with the dignity of a silent prayer and flowers. Wherever you may be – in your school, at your office or in your community – make it a point on this day to spare a minute, say a prayer and remember the soldiers who gave their lives for the nation. And remember the thousands of families that have lost their loved ones because of their belief in service to our great country. Think of them, and give this day the honour it deserves.

5

Enfranchise Our Jawans

Indiatoday.in

5th February 2014

The EC has observed that “only a miniscule number of service personnel are registered as voters and only a very small percentage of service voters are able to exercise their franchise on timely receipt of their postal ballots.

In the next three months, many of India’s 880 million eligible voters will start lining up at voting booths to select members of the 16th Lok Sabha. This will be a free and fair election and a celebration of democracy and voting involving the largest electorate in the world. This will be no mean achievement and the Election Commission of India has, over the years, worked hard to cover the length and breadth of India to allow voters to access and avail their constitutional right of voting - including actioning of a voting booth in Gir Forest for just one voter.

Vote

But, surprisingly and shockingly, there remains a large group, estimated to be almost 3 million, which remains largely disconnected from this democratic right: the men, women and families of the Armed and Paramilitary forces. Currently, a majority of our men and women in uniform and their families are being denied their basic democratic right to vote, astonishingly most of them getting to vote only post retirement.

Imagine that - a group of people amongst the most national service-minded citizens are the ones being denied their fundamental right to vote. This despite the Supreme Court ruling in 1971 that service voters can register as general voters just like any citizen of the country and the Election Commission having defended this right.

But it seems the EC then came up with with guidelines that specify that “armed and paramilitary personnel should have three years’ tenure and the family should also be registered as voters’.” A restriction that makes it impossible for any uniformed person to be eligible given that most of them are transferred and move from post to post regularly and are in most cases unaccompanied by their families.

The reasons for the Election Commission’s guidelines remain shrouded in mystery. This is unacceptable because the right to vote under the Constitution equally applies to all citizens and cannot be fettered. No civilian voter has any restriction of 3 years or family accompanying them.

This is therefore clearly an unacceptable situation and a blot on our democracy. This issue hasn’t been spotlighted and I too became aware of this only recently.

Though the EC provides armed forces personnel with options of postal ballot system and proxy voting method, they have been non-starters due to several deficiencies. The postal ballot system has

proved inadequate and inefficient due to the long delays involved in sending out voting sheets to military personnel posted away and further due to the short time between last date of withdrawal of candidates and polling i.e. 10 days.

Rights

Imagine the plight of soldiers posted along the borders with China, Pakistan and Bangladesh; in jungles of North East and at Siachen Glacier, waiting to participate in the election process. They have to wait until they retire to actually enjoy the democratic right enshrined in the Constitution. Even During World War II, British soldiers voted through mobile polling stations. Over six decades later, the Indian armed forces seem disenfranchised.

A decade ago, EC observed that “only a miniscule number of service personnel are registered as voters and only a very small percentage of service voters are able to exercise their franchise on timely receipt of their postal ballots. With reduction of campaigning period to 14 days, the system of voting by postal ballots has become almost impractical for the service voters.”

It was then that the proxy voting system was introduced by enacting The Election Laws (Amendment) Act 2003. The poll panel also observed in 2009 that military personnel “could be enrolled as general voters at the place of their posting” and called upon commanders to spread awareness of their rights and options available to them. Sadly, the situation on ground has changed little. Most of the soldiers/sailors/airmen and officers remain out of the electoral process for virtually their entire youth and adulthood.

Solution

Let us not allow one more opportunity in the form of coming elections to be lost. There are a few workable solutions that can be implemented to ensure and enable our armed forces to cast their vote in Lok Sabha elections.

1. The EC should rescind any restrictions on Armed and Paramilitary forces personnel and their families in terms of their voting rights. They must be able to exercise their constitutional rights of voting at their place of posting without any fetter just like any other civilian voter.
2. If armed forces personnel in democracies like US, UK and Israel can vote in uniform in polling stations, why not India's soldiers? Let polling booths be set up in cantonments, unit headquarters and regimental headquarters.
3. Wives and family members of an officer/jawan who aren't living with their spouse must be permitted to vote from where they stay, like any civilian.
4. The EC should immediately start registration of troops in cooperation with Armed Forces headquarters and use local unit commanders list of serving men/women as electoral lists.
5. The Armed Forces HQs must instruct all units to start registration of voters.
6. Every Unit should designate one officer as Unit Regimental Officer whose job should be to ensure that fresh enumeration is carried out, and that there is enough awareness about the voting method.

Those arguing against enabling our armed forces to vote lest they become "politicised" are doing great disservice to our brave soldiers. If they can be trusted to protect our nation, they can surely decide to exercise their Constitutional right like any citizen. India is a mature democracy and our armed forces personnel have shown over the decades that they are an apolitical force, and highly disciplined and committed to our nation.

This current situation is impacting the fundamental right to vote of these men and women in uniform. It is neither acceptable nor tolerable. Let the EC then do the right thing by these men and women and bring them also into this great celebration of democracy.

6

Budget 2014: Geared Towards Election Year Sops; But Welcome The Approval Of One Rank, One Pension (OROP)

Mail Today

18th February 2014

The announcement by our government to accept the long-pending demand of our Armed Forces personnel for ‘One Rank, One Pension’ (OROP) marks the culmination of the struggle by lakhs of veterans, their families, and my efforts for the last 7 years. It is an issue which I took up on their behalf ever since I entered the Parliament in 2006.

OROP is a demand for fairness and respect by our ex-servicemen. Over the decades, the ex-servicemen have repeatedly sought government’s support on these issues through peaceful demonstrations and surrendering their medals. Today marks the success of all our persistent efforts.

For too long, the political leadership has ignored the call for justice causing the veterans and their families, who have spent

their lives serving the nation and our flag, to feel neglected and disadvantaged. OROP, to me, has always been about honour, dignity, and fairness for our Armed Forces. I have relentlessly pursued OROP, both inside and outside the Parliament, for seven years. In August 2010, when the Parliament moved to increase salaries of the MPs, I protested this decision because I believed it sent a wrong signal to our citizens that public service and duty to our nation, as exemplified by the Armed Forces veterans, are secondary to political expedience. I refused to accept the increase in compensation given to MPs until and unless the government agreed to implement OROP.

Finally, after all these years of continued efforts, the government approved ORDP. Needless to say, this is one of my most satisfying efforts as an MP.

I wish to thank Defence Minister A.K. Antony, who has always been sympathetic to the issues I have raised. I salute and congratulate all veterans for their perseverance and triumph. I hope President Pranab Mukherjee, the Supreme Commander of the Armed Forces, will intervene and return the medals that were surrendered during this struggle.

Albeit late, the government's decision to implement OROP will provide justice and prevent further alienation and dis-enchantment amongst the 25 lakh veterans who served the nation selflessly and with distinction. It is disheartening, however, that it took the prospect of a defeat, in the forthcoming elections, for our government to finally do what has always been just and due.

‘Armed Forces Personnel Should Be Able To Vote Like Civilians. Why Make It So Complicated?’

Tehelka

15th March 2014

It is ironic that in the world's largest democracy, personnel of the defence and paramilitary forces are unable to exercise their franchise. In the forthcoming General Election, too, around 14 lakh personnel of the defence services and 9 lakh personnel of the paramilitary forces might not get to vote. Rajya Sabha MP and businessman Rajeev Chandrasekhar has petitioned the Supreme Court to ensure that armed forces personnel and their families are able to vote from wherever they are stationed. In a conversation with G Vishnu, he explains how flimsy arguments are used to deny the armed forces personnel their democratic right.

One could argue that a campaign for better equipment and more holidays for defence personnel is more urgently necessary than the right to vote. But you consider their right to vote equally important. What made you take up this issue?

First of all, I don't see this as prioritising between equipment, arms and voting. They are all relevant issues that the armed forces face. All of them are important. However, voting is of crucial importance as the right to vote is a constitutional guarantee. It cannot be left to anybody's discretion. The need to procure weapons and equipment is left to the discretion of bureaucrats and politicians. The right to vote has been given fundamental importance in the Constitution. It is completely unacceptable for anybody to put fetters on a citizen's right to vote, and more so when those citizens are among the most patriotic people in the country — as the armed forces personnel are.

For quite some time, I had been campaigning for 'One Rank, One Pension' in the army and for assistance to disabled veterans. There was an open house meet of veterans in January. One of the participants told me that he could vote for the first time only after he left the service. I asked him why he couldn't vote when he was in the army. He told me that the Election Commission (EC) had made it impossible for people like him to vote by placing a condition that you had to be in a particular place for three years, accompanied by your family, to be able to exercise your franchise. It is impossible for armed forces personnel to fulfil this condition. I found this completely unreasonable. There are no such conditions on you and me. When we move from place A to place B in India, we are free to register ourselves as voters at the new place where we are transferred. I did some research on this issue and realised that such conditions put fetters on the rights of Indian citizens.

How has the EC been avoiding the issue until now? Is it just lack of initiative? If the EC can send officials to a remote village in the Gir forest in Gujarat to ensure that a tribal living there is able to vote, why can't it do the same for the armed forces?

I could be wrong on this, but I do think that this has more to do with the kind of people in the armed forces — they are so

disciplined that they are not used to making a fuss over their rights. In their list of priorities, going out on patrol and securing the border would be placed higher than anything else. If someone denies them the right to vote, they cannot sit on a dharna at the Jantar Mantar. They cannot send a delegation to meet the army chief. It is really for the civil society and the media to answer why these people, who are always silent because of the nature of their discipline, have no voice. Who is going to speak for them? Just because they do not hold press conferences or sit on a dharna like some chief ministers, they are denied their rights.

Shouldn't the EC have been more proactive?

I did raise the issue with the EC. I invited Election Commissioner HS Brahma to one of our open houses. I also met Chief Election Commissioner VS Sampath. They were astonished and agreed that the fundamental rights of our armed forces personnel should be protected. They conceded, though, that there could be bureaucratic problems such as undoing the decisions taken by previous officials. I believe there was only one reason behind the decision to keep armed forces personnel away from voting: the fact that the army is posted for security duties in some constituencies. The fear was that the army could impact the outcome of the polls. But that is not a valid argument. It is as facile as saying that the Punjabis in Bengaluru would affect the election results, so they should not be allowed to vote. India is a democracy and Indian citizens, be they civilians or armed personnel, are allowed to settle anywhere. Demography does change. But you cannot deny anyone the right to vote.

Some people argue that an apolitical army is better than one composed of personnel with political preferences.

That is a stupid argument. The army, as an institution, does not participate in politics. Every individual in the armed forces is an

Indian citizen, who is concerned about the country like you and me. They also have access to the media and are aware of what is going on in the country, eg, the numerous scams. They can certainly distinguish good politicians from the bad. The armed forces cannot indulge in politics, the way they do in Pakistan or Thailand, for instance, but army men can. In every democratic country such as the US, the UK or Israel, while the armed forces remain apolitical, the army men are allowed to exercise their right to vote. Arguing that army men should be apolitical is like saying all criminals should be apolitical.

The US ensures that all its combat personnel, wherever they are, get to vote. A US citizen can vote in the election over telephone from any country. Could India come up with something similar or even better — an alternative to making EVMs available in border areas?

Firstly, let's agree that every Indian should have the right to vote without any fetters. Secondly, let's address the question of how to ensure they get to vote. Both proxy voting and the postal ballot are impractical in the Indian scenario. Proxy voting is effective only when the family can be considered a single electoral unit. A soldier could then ask his family members to vote on his behalf. But we live in a modern world. Individuals from the same family make different political choices. Proxy voting is unfeasible as it defeats the purpose of confidential voting. On the other hand, postal voting is meant for people who are overseas — diplomats, soldiers on UN missions, soldiers deployed in other countries to guard the embassies. In the Indian scenario, it is impractical because the time limit for the postal ballot to be sent and received back from a particular place is 10 days and that would be impossible to ensure. Army men should be able to vote like civilians. Why make it complicated?

Will armed forces personnel be able to vote in the forthcoming Lok Sabha election?

Let's hope so. If the EC has the right interests in mind, it will do away with the restrictions it has imposed. Anyway, I have petitioned the Supreme Court and we will argue that the restrictions are unconstitutional.

Most people from corporate India stay away from constructive campaigns for improving the Indian polity. Do you think India Inc should engage more creatively with politics?

In 2007, when I was the youngest head of FICCI and also an MP, I had called on my fellow businessmen to work towards making business houses more responsible stakeholders in Indian democracy. This was before the image of Indian business houses took a beating. I agree that business houses in India are not playing the role they ought to: fostering democracy and improving the quality of our politics and political debate. Business houses should be at the forefront in asking for transparency and reforms in governance. They must also act like they have a stake in good governance and good politics.

Unfinished Agenda For Our Armed Forces

Hindustan Times

26th July 2014

Unfinished agenda for our armed forces The Kargil Vijay Diwas must not be politicised but commemorated with the solemnity and honour it deserves

Every year July 26 is observed as Kargil Vijay Diwas and today is the 15th anni-versary of India's victory in a conflict forced upon it by the adventurism of Pakistan's generals. This victory came during Prime Minister AB Vajpayee's leadership. Unfortunately, we live in times when everything — every public institu-tion and national legacy — seems to have been politicised. So it was with Kargil Vijay Diwas, and in the past decade, one often got the impression that the UPA underplayed its importance for most of its early years.

In commemorating Kargil Vijay Diwas with the solemnity and honour it deserves, the Narendra Modi government will not only be correcting a wrong, it will also draw attention to the unfinished agenda for those who have served and serve in our armed forces. The Modi government has made a good start with the announcement of a Veterans Commission, National War Memorial and moving forward on One Rank, One Pension (OROP).

On the OROP issue, it is significant that the order issued by the outgoing UPA government on February 26 does not mention the accepted definition of OROP.

The National War Memorial is a long delayed tribute by the nation to all those who fought and died in the wars of independent India and their families. The UPA had endless meetings but never took a decision. I hope that the National War Memorial complex near India Gate will be built expeditiously.

A few other demands of the armed forces fraternity need to be addressed. First, we must standardise and have a uniform policy of compensation and rehabilitation for gallantry award winners in the armed forces across all states. Different states follow different yardsticks for compensating two soldiers who die under exactly the same circumstances.

Second, many nations like Britain have a Military Covenant, a sacred undertaking by the government and by Parliament, which guarantees the well-being of soldiers and their families, should a life be lost in the service to the nation. The government must embrace this endeavour and make good our promise to our armed forces.

Third, if cricketers and film stars can become some of the 12 nominated Rajya Sabha MPs, why not a veteran? The veteran represents far more crucial ideals and values of service than actresses or cricketers, who rarely make an appearance.

And finally, let's make this a day to remember the unfinished business of seeking justice for Captain Saurabh Kalia, who was tortured and killed by Pakistani forces during the Kargil War in violation of international law, natural justice and human dignity.

I will be at the Bangalore National Military Memorial on July 26 and encourage those in Delhi to visit the Amar Jawan Jyoti at India Gate and spend a few minutes in prayer in the memory of those bravehearts who fought like lions at Kargil 15 years ago.

9

We Have To Do More For Our Armed Forces

Mail Today

16th December 2014

December 16, 1971, is an unforgettable date for anyone who lived through the Bangladesh War. Vijay Diwas, as the day is known, commemorates not just an absolute military triumph, unparalleled in modern Indian history, but also the triumph and heroism of the professional Indian soldier. Three-thousand, eight-hundred and forty-three Indian soldiers died in 1971. About three times that number, 9,851, were injured.

The war also saw 1,313 Indian soldiers receiving gallantry awards, many posthumously. Four were awarded India's highest battle honour, the Param Vir Chakra. These four men represented the best of India and yet they came from diverse backgrounds. Lance Naik Albert Ekka was born in a small village near Ranchi. Second Lieutenant Arun Khetarpal from Pune, was just 21 when he died in

his tank, having single-handedly crippled the Pakistani armoured advance at the Battle of Basantar.

Leadership

Flying Officer Nirmaljit Singh Sekhon, literally the Flying Sikh, defended the skies above Srinagar, taking on and outgunning F-86 Sabres in his slower and smaller Gnat. Finally, there was Major Hoshiar Singh, who braved heavy shelling and went trench to trench, urging his men to fight on and capture an important Pakistani position in the Shakargarh Sector.

What motivated these men and thousand others? Under the inspiring leadership of men like General Sam Manekshaw, these men weren't just "doing a job"; they were going well beyond the call of duty, showing extraordinary calm and determination and sheer, audacious bravery to fulfil the National objective despite overwhelming odds.

It is important to recall and remember these achievements, and distinguish this from the self-congratulation of a political and sarkari bandobast on every Vijay Diwas. Politicians and bureaucrats in the Ministry of Defence have essentially spent the past four decades riding on the valour, the grit and the hard-won successes of those heroes of 1971.

And how have they appreciated these men? The general who led us in 1971, Field Marshal Sam Manekshaw, was an authentic Indian legend. When he died in 2008, the Government of that time did dishonour. Let alone their presence, no wreaths were placed on behalf of the President and the Prime Minister. The Defence Minister was too busy with political meetings in Delhi. Instead, he sent his Minister of State – the most senior government representative at Sam Manekshaw's funeral.

Was this an unconscionable, one-off oversight? I would argue it betrayed a certain attitude and mind-set that has long since treated

soldiers as cannon fodder to be used and discarded. Let me tell you another story, also from 1971, though not from the war. It begins with an earlier war, that of 1965, and with the martyrdom of Babaji Jadhav, a jawan of the Maratha Light Infantry, who was killed in Jammu & Kashmir.

Dispute

He left behind a pregnant wife, so traumatised that a few months later she delivered a stillborn child. Life was hard for this martyr's widow. She began with menial jobs, including one as a tailor's assistant. Later, she became a teacher in a village primary school. Just before he died, Babaji had applied for an agricultural plot under a scheme that gave soldiers priority while allotting government land to landless peasants. Indira Jadhav, Babaji's widow, pursued the case. It took her six years, until 1971, to get an assurance that the Government's promise to her husband would be honoured.

In July 2014 Indira Jadhav had approached the Bombay High Court. Not only had she not got an inch of the promised land, she was being asked to pay market rates – 2014 rates – by the district administration of Ratnagiri. At the end of her wits, the lady went to court. She must have asked herself a hundred times: is this the country and people my husband fought and died for?

In 2010, the case of Pushpa Vanthi came to light. Living in Meerut, this 90-year-old widow of a retired Major was being paid a monthly pension of Rs. 80. She was entitled to Rs. 27,000 and had been battling the Ministry of Defence for 13 years, since her husband's death. She believed her husband died of war wounds sustained years earlier. The Ministry claimed he died of an illness not related to the wounds. As the dispute festered, the due pension was held up – and a soldier's grieving widow was left to survive on Rs. 20 a week.

Appalled and ashamed, my foundation – The Flags of Honour Foundation - stepped in and offered to pay a monthly stipend to Pushpa Vanthi. It was the least we could do.

Grievences

Why should our old soldiers and their families, the wives and dependants of our martyrs, continue to be the stepchildren of Vijay Diwas? If we are to address this, the new Defence Minister has to take up as his mandate a set of long-pending demands and grievances of the Armed Forces. The setting up of a Veterans' Commission, as a statutory institution to which old soldiers and their families – such as Indira Jadhav and Pushpa Vanthi – can go for help, is overdue. So is a uniform policy on gallantry award winners. Currently, this varies from state to state.

Clear, rigorous and expeditious implementation of the One Rank, One Pension policy, and a mechanism to look into the problems of disabled soldiers, for a lifetime, are other essentials. We owe this to the men and women who defend us. It is the unfinished business of Vijay Diwas year after year for the past 43 years.

10

16 Years On, Those Who Fell Are Being Remembered Finally!

Hindustan Times

7th June 2015

On June 9, 1999, Dr N.K. Kalia and his family were handed the tortured body of Capt. Saurabh Kalia. All these years, Dr Kalia and his family struggled to get justice for the brutal torture and barbaric killing of their son Capt Kalia. While they struggled, they would have surely been astonished and shocked by the apathy of the Delhi establishment towards all things to do with those who serve and die for the country.

Capt Kalia and the five man patrol of Sepoys Arjun Ram, Bhanwar Lal Bagaria, Bhikaram, Moola Ram and Naresh Singh were the first casualties of Pervez Musharaff inspired Kargil `conflict`. They were ambushed, captured and tortured in May 1999 and their bodies were handed over on June 9, 1999. Conflicts between nations are inevitable even after history has told us about

futility and tragic human suffering caused by it. But there are international laws like Geneva Convention that govern treatment of prisoners. That the treatment of Capt Kalia and his men were in contravention of this is irrefutable. A crime was committed that day of May 1999 and so justice must be done. For several years, I had pursued this justice on behalf of the family with the UPA and present government in Parliament. On Dec 7, 2012, frustrated by then UPA government's apathy to my various letters, requests and Parliamentary Interventions, I filed a petition with the International Court of Justice.

In July 2014, I intervened again in Parliament with new government and received a bureaucrat inspired reply that implied a status quo, causing much disappointment and heartburn since this government was expected to be different. So. the announcement by Ms Sushma Swarai that the government would also pursue the case with the ICJ is good news and is a big first step in the pursuit of justice for Capt Saurabh Kalia's family. With this, the government has also signaled that it understands its duty to those who serve and sacrifice.

For the Pakistan establishment and Army, this is a moment to transform and distance itself from types of Musharraf and its barbaric past and enter the realm of professional armies of civilised nations.

For India, this is a time and moment to distance from the apathy of the UPA years to one where service and sacrifice are revered, and crimes against any Indian are relentlessly pursued and never forgotten.

Thank you External Affairs Minister Sushma Swamj and Prime Minister Narendra Modi for doing the right thing!

11

On The Anniversary Of Operation Vijay We Must Pay Tribute To Our Martyrs

Mail Today

25th July 2015

July 26, 1999, memorialised from that day on as Kargil Vijay Diwas, marks the successful completion of Operation Vijay.

Along with the December 16, 1971 liberation of Bangladesh, it is one of the great moments in the history of our nation, for which we must thank our Armed Forces.

Sacrifice

It was on this day in 1999 that hard fighting units of our Armed Forces regained control of key outposts that had been occupied by Pakistani troops (pretending to be what else but jihadis!).

Relatives of Kargil war martyrs break down during a function on the occasion of Vijay Diwas in Drass, Jammu and Kashmir

Relatives of Kargil war martyrs break down during a function on the occasion of Vijay Diwas in Drass, Jammu and Kashmir

The re-taking of Tiger Hill, a mountain in the Kargil-Drass region of Jammu and Kashmir, was the turning point of that war.

Apart from reminding us of Pakistan's long and dubious track record of betrayal and untrustworthiness, this war which was the first to be televised, brought the reality of armed conflict into millions of homes.

Many realised that serving in the armed forces was more than spit and polish and uniforms and glamour — it was about inhospitable and formidable terrain and weather, hand-to-hand combat at 18,000 feet and lives and limbs being lost.

Indians saw this in real time, albeit in the comfort of their homes. Kargil and the service and sacrifice of the many brave-hearts who settled this war for India are firmly etched in our collective memory — Lt Saurabh Kalia, Capt Vikram Batra, Havaldar Chuni Lal, Rifleman Sanjay Kumar, Capt Haneefudin, Maj Acharya, Major Sarvanan, Sqn Ldr Ajay Ahuja, Lt Manoj Pandey, Grenadier Yogendra Yadav, Lt Kenguruse, Capt Vikram, Capt Vijayant Thapar, Lt Nongrum, Major Wangchuk and so many more.

It was a nation asserting its will — as a Naga Angami Lt, a Buddhist Major, TAMILIAN, Andhra, Kannadiga, Malayali, Punjabi, Kashmiri, Rajput, Garwali officers and men united as Indians inflicted yet another defeat on the Pakistan Army.

That is why — the brave-hearts of Kargil were, and are, mourned with a deeply-felt emotion. 16 years on the statistics reverberate — 527 killed, 1,363 wounded, two fighter jets and one helicopter lost!

It was a collective loss, and felt like a collective loss. In the years since Independence, our soldiers had served us gallantly, but largely away from the public eye.

They had fought insurgencies and terrorists in Punjab, the Northeast and Jammu and Kashmir.

They had turned up, selflessly, each time they were asked to mount a rescue op following a natural disaster. But they were always away from the limelight.

Kargil brought them back into public consciousness and reiterated their value to our society — as the valiant guardians of our well-being, security and freedom.

Kargil made Indians aware of the obligation the nation has to those who serve in its armed forces.

When the soldier goes to the front, he must go with the knowledge that his well-being and the well-being of his family, or his survivors, should he unfortunately not return, is not his responsibility; it is a national resolve. Or should be.

As Prime Minister Modi said in Oct 2014: “The nation’s trust was the biggest strength of our Armed Forces.”

And so it is that we must always fulfil our responsibilities to them. While this resolve is accepted by all in India, its implementation is still an unfinished business.

An NDA Government won the Kargil war. Today, we have another NDA Government, one led by Prime Minister Modi, which is not just committed to commemorating the sacrifices of the Kargil war and of the war of 1965 — of which we mark the golden jubilee this year —but also clear in its resolve to keep our national security and economic interests secure.

Discourse

The Indian soldier needs a new deal. Part of this new deal is an energised weapons procurement and manufacture programme, the most ambitious in decades.

It will ensure that the Indian soldier does not go to battle with, metaphorically, one arm tied behind his back, and with concerns about quality and quantity of equipment and munitions.

But, when the discourse on defence and national security tends to be all around latest fighters, or tanks or ships or submarines — it's worth remembering that our national spirit and resolve is linked to the man or woman in uniform and his/her spirit of service to the nation.

OROP

Political leaders may make great speeches and exhort the nation, but it takes thousands of uniformed men and women and their families to be translate that into real national grit and resolve.

This brings us to real issues for the serving or retired soldier and his family — be it the much delayed One Rank, One Pension promise to veterans who have served all these years, National War memorial, Veterans commission or improving living conditions including housing, schooling, medical, skilling for the families of those who serve — there are many elements to be completed to demonstrate the commitment of the nation to our Forces.

The issue of OROP is a particularly wrenching one. The sight of old soldiers, protesting in the heat in the heart of the nation's capital is gut wrenching and heart breaking.

Its worth remembering Chanakya's wise words to King Chandragupta "the day the soldier has to demand his dues will be a sad day for Magadha. For then, on that day, you will have lost all moral sanction to be king."

A just and fair resolution to the OROP dispute is important both - for the dignity of our soldiers/veterans and the ideals of service to the nation that these brave men and women embody, writes Rajeev Chandrasekhar

A just and fair resolution to the OROP dispute is important both - for the dignity of our soldiers/veterans and the ideals of service to the nation that these brave men and women embody.

This was true 2,300 years ago. It is true today. As a Government that is possibly the most pro-forces one in recent history, I have no doubt that it will eventually deliver on OROP and other things that need to be done as part of our national covenant.

The delay is disconcerting and could have been avoided. A just and fair resolution is important both - for the dignity of our soldiers/veterans and the ideals of service to the nation that these brave men and women embody.

On Kargil Vijay Diwas, let us promise to settle for nothing less than that.

12

Modi Delivers The OROP Gift

Mail Today

8th September 2015

The announcement of One Rank, One Pension (OROP) by the Narendra Modi Government is the culmination of 40 years of wait and struggle by lakhs of veterans, their families and war widows.

This decision makes OROP the biggest and most significant welfare measure for veterans in Post-Independent India by any Government and the credit for this landmark decision must go to Prime Minister Modi, Defence Minister Parrikar and Finance Minister Jaitely and the Government for the fulfilling this important promise.

OROP is our country's thanksgiving to Veterans and widows for decades of service and sacrifice. The Armed forces serve under unique conditions characterized by serving conditions far from families and very early retirement ages. OROP is the nation doing the right thing by our veterans.

The significance of this government decision to implement OROP can be appreciated if we understand the history of the 4 decades old struggle, including the financial implications for the government to implement this welfare measure.

All nations and their people treat their veterans and serving men and women with love, respect and honour. However, our conduct towards and responsibility towards the 25 lakh veterans and their families on this issue has been unfortunate and indefensible. These proud men and their families serve our nations selflessly with a certain belief that nation will look after them when it's their time to be looked after. As someone who actively engaged and intervened with all the senior leaders of successive UPA governments, I can testify to complete lack of interest by UPA to OROP for all the 10 year's they were in Govt. The UPA neither demonstrated the political resolve or the guts for 10 years to resolve this matter and their belated and desperate attempt to take credit for implementing OROP is laughable if not tragic.

Not just OROP on many other issues relating to Armed forces and veterans, UPA's approach was apathetic - be it Voting rights for Armed forces or building of a National Military Memorial or cutting fuel allocations to our front line troops and many more. Not only did UPA rejected the OROP but hastily made the announcement of OROP on the eve of the Elections in 2014 and allotted a budget of Rs.500 crores. The hollowness of UPA poll-eve decision can be gauged from the fact that the government needs to spend anywhere between Rs.8500 to Rs.10,000 Crores. Given the improving but fragile state of economy, PM Narendra Modi's decision on OROP coming in just 16 months, despite the huge financial implications, needs appreciation.

OROP signals the Government's and Nation's appreciation of National service and Patriotism as values which can never be compromised in our efforts at building a strong and secure Nation. To those in our forces, who continue to serve this is a signal that

country and people are behind you and your families as you serve and protect.

For me personally, government announcement marks 9 years of struggle and perseverance on OROP – starting with the dark days of proud veterans giving up their medals in 2006. OROP was one of the first issues I took up after I joined active politics – and expectedly today is a big day for me personally and for my time in public service. Apart from raising it repeatedly in Parliament and media to the point that I was even called “OROP Rajeev” by many political leaders. I have also had the honor of sitting with veterans in many protests in Bengaluru and Delhi, including at Jantar Mantar. It was my petition in 2011 to the Petitions Committee of Rajya Sabha headed by B.S Koshiyari that got Parliament’s agreement on OROP to the armed forces personnel.

While OROP is an important milestone, it is not the end of the journey. The Government must strengthen its commitment and concern for the welfare of armed forces personnel by considering important issues such as finalising venue and starting work on National Military Memorial in New Delhi and a National Commission for War Memorials of India and importantly consider passing Armed Forces Covenant, I had introduced this in 2011 as a Private Member Bill in Rajya Sabha , a law that will instill a sense of encouragement among the armed forces personnel and will go a long way in assuring them that the nation truly values their sacrifice and service.

Finally, the political leadership of PM Modi is without doubt one of the most pro-forces and pro-veteran government in history of India and this is something that needs to be built on as further ways to improve the cause of our Armed forces, Veterans and families.

With a 40 years old issue now resolved, I urge President and Supreme Commander of the Armed Forces, Pranab Mukherjee to intervene and ensure the return of the medals that were surrendered by the veterans during their struggle.

13

Premature Retirement Should Not Have Been A Caveat For OROP: Interview

The Week

9th September 2015

Bangalore based businessman and Rajya Sabha member Rajiv Chandrasekhar has been interlocutor for the ex-servicemen in the One Rank One Pension demand. Son of former Air Force pilot M.K. Chandrasekhar, he says the veterans' issue is close to his heart. In an interview with THE WEEK, Chandrasekhar speaks on the latest OROP announcement.

Is what defence minister Manohar Parrikar announced on September 5 really One Rank One Pension in letter and spirit?

It is clearly OROP. I agree issues around the edge of the definition may have diluted the concept of a pure OROP, but let's acknowledge that the most important development is that old pensioners will be brought up to the current level of pensions.

Why was the issue of VRS/Premature Retirement thrown into the work when there was no mention of it in any previous discussions?

This was a surprise, I was not aware of any such move during any of the deliberations. I believe the issue has nothing to do with OROP. My understanding is that they may have thought that if somebody left the armed forces prematurely for better job opportunities in the private sector, why should they be entitled enhanced pension. But the reality is different. People leave the armed forces for various service related reasons like battle injuries, medical complications and superannuation. This exit should be allowed as it keeps the force young and fit. I do not think they should have introduced this caveat and created a divide among the types of retirees. The government doesn't save much money, either.

Why have they announced a judicial commission to look into the issue of the periodicity of review when the Koshiyari committee had already suggested it as yearly?

Actually a judicial commission may be a good idea as it can sort out several unresolved issues.

The average of the maximum and minimum pensions in one batch is to be considered the pension for all in that group. But the pensions of those who were at the top end of the scale is protected. Aren't we introducing multiple pensions at every rank?

There is no arguing that this is not the pure OROP and there may be several pensions under one rank. However, there will be fewer pensions per rank than previously, and the difference would not be that great, too.

Do you believe that the government's announcement will boost morale of armed forces -serving and retired?

OROP was never so much about money as it was about izzat (honour), which is at the core of military ethos. Today, there is a

huge trust deficit among servicemen, politicians and bureaucrats. This move will definitely signal that the polity class is willing to take a direct interest in matters of the forces.

However, we need to go beyond the OROP and look at the issue of pension reforms. Faujis retire early because of the nature of their service, yet, most of them are fit enough to be inducted laterally into other government outfits which do not require the same standards of fitness. The idea was mooted during the sixth pay commission, and I am aware the para military and other organisations were not too keen on it. But I believe the political class should now take this forward and come up with working solutions.

Soldiers Must Not Be Made To Fade Out

Hindustan Times

14th September 2015

The announcement of One Rank, One Pension (OROP) by Prime Minister Modi's government which was a 40 years pending thanksgiving to the millions of veterans and their families has also focussed attention on the issue of Pension costs.

Pensions are a long term liability for any Government and with life spans increasing creates significant challenges in long term fiscal planning for Governments all over - as is the case with India. The OROP decision by the Narendra Modi Government was a particularly gutsy one, given that its real costs of Rs. 8300 Crores per year were far higher than the estimate (or guesswork) of the UPA government of Rs. 500 crores per year. This marks an almost 15% increase in the existing Defence budget of 54,000 Crores per year. The recent decision of OROP also stipulates a 5 year

normalization and not annual as is the purist definition, because of the need for Government to understand and study how Pension costs move post OROP.

The justification for OROP lies in the peculiar way Armed forces personnel are made to retire early. Jawans are made to retire as early as 35 and officers as early as 54. This would seem to be anachronism at a time when people are working later in life. But this requirement is because of the trying service conditions that historically wear out soldiers very early in life, combined with the need to always have a fighting fit Armed force. This early retirement practise in turns creates large number young pensioners - which is at the root cause of the high Defence Pension cost.

This needs a relook and the time for Pension reforms is now. This also spotlights the need to reform the way Armed Forces service conditions are structured - which in turn have an effect on their Pensions. For starters - it is a national waste to allow a 35 year old Jawan or 54 year old officer to retire at what is prime of his life. With better medical facilities and fitter soldiers, it's probably a good time to relook at the retirement age of soldiers. Also Re-skilling of armed forces personnel must be intensified so that instead of retirement - they are provided lateral opportunities in Government institutions like Paramilitary, Police or State/City/Village/District Administration. The US is a good example of how veterans find themselves serving in Police forces and Government around the country after their tour of duty.

In India, such lateral placements would achieve two objectives - one that skilled, dedicated and professional men and women are made available to Government organizations, the second that this will decline the Pension bill and costs to the Government. Lastly looking to the future the Defence forces must start restructuring and transforming to a smaller, nimbler and more mobile force and reduce numbers over the medium and long term. This is the norm

all over the world as forces reduce their size whilst retaining their offensive capabilities with mobility and technology.

Veterans are human capital that represent National service at its highest. For reasons that are inexplicable, they find very little representation in Government machinery post retirement. One explanation is the age old hostility that bureaucracy has to the culture of the Armed forces. But the political leadership of this Government can take the lead on this initiative and make this part of sweeping Government reforms. Using Human capital like Veterans fully is good for the economy and in this case it will mark a reform on the dreary old habits of the past that will mark real reforms in Pension costs. The time for this is now!

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Time To Do More For Our Soldiers

Mail Today

19th December 2015

This year marks the 44th anniversary of Vijay Diwas, the triumph of Indian armed forces' win over Pakistan in the 13-day war, considered to be one of the shortest wars in modern history that resulted in the unilateral surrender of the Pakistan Army and led to the creation of Bangladesh.

Vijay Diwas commemorates not just an absolute military triumph, unparalleled in modern Indian history, but also the triumph and heroism of the professional Indian soldier. About 3,843 Indian soldiers died in 1971. About three times that number — 9,851 — were injured.

Surrender

The photograph of Lt Gen AAK Niazi signing the instrument of surrender on December 16, 1971, in the presence of Lt Gen Aurora

adorns my office and still fills me up with pride each time I see it.

As we celebrate the victory and salute the sacrifices of our soldiers, and their display of immense courage and selfless service to our nation, it is important to ensure that, as a nation, we examine if we are doing enough to look after the brave men and women. It is time to have a relook at their service conditions focusing on the economic security and employability of the soldiers, especially those who retire in their early 30s.

The recent announcement of One Rank, One Pension (OROP) was a watershed moment for our defence forces and ex-servicemen, and clearly the biggest and most significant welfare measure for veterans in post-Independence India by any government. The estimated cost of the OROP scheme is about Rs 8,300 crore, which will mark an increase of about 15 per cent in the defence budget per year, and put some burden on the exchequer and the finances of the country.

Pensions are a long-term liability for any government, and with life spans increasing, creates significant challenges in long-term fiscal planning for governments all over — as is the case with India. There is need to reform the way armed forces service conditions are structured — which have an effect on their pensions.

Our jawans are made to retire as early as 34 and officers as early as 54, which for many is the prime of their lives. Because of these early retirements, the government has to bear the costs of these pensions leading to high defence pension costs. Each year, about 50,000 men retire from the armed forces and around 56 per cent of them are below the age of 40. Being from the armed forces, these men are highly trained and disciplined and would be an asset to any organisation.

It is for this reason that I have, time and again, reiterated in the past that the government lay special emphasis on reskilling

and rehabilitation of the veterans so that they can be absorbed back in the job market of the country. The reskilling of armed forces personnel must be intensified so that instead of retirement. The armed force personnel are provided lateral opportunities in government institutions like paramilitary forces, the police or at different levels of state administration.

Employable

The government must invest in the reskilling of the young veterans, make them adapt to new and emerging technology and even train them to become micro-entrepreneurs. The government must do its bit in providing incentives to the corporates in terms of tax incentives to encourage them to hire more ex-servicemen. In May 2013, a written reply to my parliamentary question says that there was no proposal to provide any tax incentives/concessions to companies who agree to hire retired/released armed forces veterans. I sincerely hope this policy is changed urgently by the new regime as such lateral placements would prove beneficial to our veterans and in turn to the government finances itself.

Also, I firmly believe that it is a national waste to allow a 35-year-old jawan or a 54-year-old officer to retire in the prime of his life. With better medical facilities and fitter soldiers, it is probably a good time to rethink the retirement age of soldiers.

Commission

Along with this, I hope that the long-standing demands of our veterans to have a Veterans' Commission is fulfilled. This demand is long overdue. We need a statutory institution to address the concerns and grievances of the ex-servicemen and their families and help them in their time of need. The government has drafted the National Commission for Ex-Servicemen Bill, 2015, to set up the National Commission for Ex-Servicemen, however it still hasn't figured in the government's agenda.

Lastly, with the objective of ensuring that the commitment for the men and women of our armed forces, veterans and their families are enshrined in law, I have introduced in Parliament the Armed Forces Covenant Bill as a Private Member's Bill. The Bill prescribes a commitment between the people of India and the Armed Forces, serving as well as retired, and their families (including bereaved families), pledging a duty of care and improving support towards them in return for their bravery and sacrifices made for protecting the nation. I hope the government supports my Bill.

While we commemorate the heroism of our armed forces and salute their dedication, sacrifice and courage, we must resolve to do more for the brave men and women.

Indian Political Leadership Must Take An Interest In Its Military History: Interview

Business Standard

16th April 2016

Independent MP Rajeev Chandrasekhar is in the process of buying and refurbishing a vintage Dakota aircraft that he plans to gift to the Indian Air Force. He tells Aditi Phadnis why. Edited excerpts:

People buy real estate and villas abroad. They buy distressed banks, distressed companies and plantations. You've bought a tin can. Why?

It is not a tin can. It is a symbol of the pride of the Indian Air Force (IAF) that my father, Air Commodore M K Chandrasekhar, flew early in his career. The DC-3 Dakota was a transport aircraft used to move troops in 1947 to quell the attack on Kashmir and push back raiders. It is a symbol of India's unity because it was used in the Bangladesh war of 1971. The famous Tangail drop was done from this aircraft.

Few realise that the Indian Air force is one of the oldest air forces in the world. It has a hoary past, history and military traditions. Because of my upbringing, I have always been deeply interested in military history and, as I am a trained pilot, I also know a little bit about aircraft. To my utter horror, around 2010, I discovered that India's DC-3s, which were housed in the Suler Airport Base just off Coimbatore, were sold as scrap. DC3 was the first transport aircraft that landed at the height of 11,500 feet in Leh by the then Wing Commander Mehar Singh, a legendary aviator. To sell an aircraft like that to some kabadiwalla!

Anyway, I discovered there was one for sale in Ireland but it needed to be restored. I decided to buy and fix it. Then I wrote to the Indian government - headed by Dr Manmohan Singh at the time - to say that I wanted to gift this to the Indian Air Force. Defence Minister A K Antony wrote back saying the Air Force had no 'policy' on gifts. So I kept it in the UK.

You mean you actually got a letter saying 'thanks but no thanks'?

Yes, well, to that effect. The message I got was: Looking after this thing is going to be a big liability for us, so why don't you just drop it.

But abroad, it has been lovingly restored and KLM even used it to make a historic commercial flight to England. Guests on the flight said they felt like Roger Moore drinking a vodka martini that was shaken, not stirred. The aircraft was called Beautiful Lady and the pilot who flew it kept referring to it as 'she'...

For me, flying the aircraft (it is now airworthy for 15-20-minute flights) reminded me of my father. I was all of four years old, at the IAF airfield in Mohanbari, Assam, holding my mother's hand. My father, all spit and polish in his uniform, looking super-handsome, got into the cockpit, then he slid the window down and gave me a little wave, started the engine and took off. I did the same with my son.

In many ways, the UPA government's rejection of my proposal is emblematic of the way we treat the military, its history, traditions and sacrifices. Britain still celebrates the sacrifices its soldiers made by the Battle of Britain Memorial flights, which remind people of the costs that were paid for the country. In our country, we wanted to sell the Vikrant as scrap....

I sensed in Manohar Parrikar a person who had a greater sense of history and respect for tradition, so I wrote to him renewing my offer. He has accepted it and the Dakota should be back in India, painted in the IAF colours, soon. The government has to decide the logistics.

To me, this is true patriotism - not deciding who should and should not say 'Bharat Mata ki jai,' in what language, with what inflexion, at what time, etc, but the recognition that the Indians who protected our country and the military traditions that made those men, must be honoured. India requires its political leadership to take an interest in its military history.

On Kargil Vijay Diwas, India Must Resolve To Give Her Soldiers Their Due

Daily O

25th July 2016

Given the ever-looming security threats around us, the nation must be invested in an armed force that is at a high motivational level.

Seventeen years ago, today (July 26) - Kargil Vijay Diwas - our armed forces won us a gritty yet decisive war against Pakistan in 1999.

Images of our brave and young soldiers fighting it out in the inhospitable terrain of Kargil flashing on our television sets cannot be forgotten.

This day marked the successful completion of “Operation Vijay”, which marked yet another bloody nose for a Pakistani establishment that to this day seems not to either learn from history nor from its long record of failures.

Kargil Vijay Diwas represents many things to many people, but to most Indians it represents what we see day in and day out - the selfless and professional approach to service of the nation that our armed forces and their families represent.

To most Indians Kargil Vijay Diwas represents the selfless and professional approach to service of the nation that our armed forces represent.

While we pay our tributes to those who fought and laid down their lives, it is a good time to ponder upon where these very brave men in uniform serving our country stand in the scheme of things.

Especially since Pakistan is again engaged in stoking up trouble in Jammu and Kashmir and the armed forces have to deal with it again.

Given the various struggles they face - they are, today, indeed the first and last bastion for all problems including terror, infiltration, natural calamities and also civil unrest.

In the recent past, the armed forces have been called upon to aid the civil administration in all sorts of situations - be it Operation Rahat in June 2013, the biggest civilian rescue operation carried out by any air force in the world using helicopters during the landslides in Uttarakhand, the floods in Chennai, Jammu and Kashmir and Assam where the soldiers put their lives on the line and saved lakhs of people and recently during the Jat agitation in Haryana with the civil administration failing completely.

Get Army out of internal security

While on the one hand we are quick to applaud the efforts and aid provided by the armed forces, on the other, we waste no time to admonish them and positioning them as a force with little or no regard for human rights.

It has almost become a routine that the civil administration ropes in the Army help whenever the situation seems to challenging.

Just as in the case of the Jat agitation, the Prakash Singh Committee Report on the Role of Officers of Civil Administration and Police makes this scathing observation: “The existing provisions regarding Army being called to assist the civil administration would probably need to be redefined. The district officers and those sitting at the state capital are finding it very convenient to abdicate their functions and call the Army. The civil administration and the state police should normally be able to face challenges to the law and order situation and the Army should be called only as a last resort.”

Then there is the Armed Forces (Special Powers) Act (AFSPA).

Vilifying the Army may seem to be the norm, but it’s easily forgotten that this provision is not the armed forces’ doing.

The Supreme Court, in a recent order on fake encounters in Manipur, observed that the armed forces are not performing a pleasant task and it is not that they chose the same.

Such situations are meant to be handled by the civil administration. There is definitely a need to create accountability in civil administration and police and get the armed forces out of the management of internal security in these disturbed areas.

The Supreme Court order made headlines with just a selective extract, but not much was written about the fact that the apex court questioned the deployment of the Army for a prolonged period.

Justice Madan B Lokur and Justice Uday U Lalit observed: “The involvement of armed forces in handling such a situation brings them in confrontation with their countrymen. Prolonged or too frequent deployment of armed forces for handling such situations is likely to generate a feeling of alienation among the people against the armed forces who by their sacrifices in the defence of their country have earned a place in the hearts of the people. It also

has an adverse effect on the morale and discipline of the personnel of the armed forces.”

Support our Armed forces

In our haste we forget the many who sacrifice their lives and limb defending the borders of the country.

Their service and sacrifice happen amidst seriously adverse conditions and asymmetry in terms of terms of engagement, equipment and other hardships.

The armed forces' requests were also insensitively handled by the 7th Pay Commission with no clarity on why most of the proposals in the joint services memorandum from the three service chiefs were rejected.

Given the ever-looming security threats around us, the nation must be invested in an armed force that is at a high motivational level, rather than the other way around. The armed forces rely on and need our motivation and support and they must be given their due.

The need also is not just to observe anniversaries and honour the tremendous sacrifices made by our soldiers within cantonments and regimental war memorials, but rather to imbibe a spirit of remembrance in our collective national conscience.

There is need for a dedicated national day of remembrance to honour not only the Indian soldiers who have laid down their lives fighting, but also those who continue to serve the nation selflessly today.

So on this Kargil Vijay Diwas, let us remember the thousands of families that have lost their loved ones - father, sons, husbands and brothers - because of their belief in serving the country and their commitment to protect us. Think of them, and give this day and them and their families the honour they deserve.

A Vote For Change: Armed Forces Exercising Their Franchise Have A Long Way To Go

The Indian Express

25th January 2017

After decades, the armed forces are finally able to exercise their voting franchise in the coming Assembly elections.

India celebrates its 68th Republic Day this year to mark the day our Constitution came into effect in 1950. Since then, India has celebrated its democracy with free and fair elections involving the largest electorate in the world. The right to vote is enshrined in and guaranteed to all citizens by our Constitution.

The Election Commission of India (EC) has, over the years, worked hard to ensure voters can avail their constitutional right of voting even in the remotest corner of the country. Indeed, India has come a long way from the first general elections held in 1951-52 with about 17.31 crore registered voters to 81.45 crore registered voters in the 2014 general election.

The 2014 elections also included 13,65,625 service voters on the electoral roll – this number included armed forces personnel and their families – many of whom voted for the first time in their tenures as general voters from their places of posting.

But this didn't happen automatically. It was a little known fact then that for decades, in the world's largest democracy, and a country with the third largest army in the world, the right to vote for about 14 lakh armed forces personnel, 9 lakh Paramilitary personnel and their families had effectively been denied. And denied by some bureaucratic rationale that was never challenged.

It is not the case today. Voting rights for armed forces has indeed become a reality for the first time in the upcoming Assembly elections in five states – Goa, Manipur, Punjab, Uttarakhand and Uttar Pradesh, where 3,64,136 3 service electors will get to exercise their franchise through e-postal ballots. A big win in the long fight for the right to vote for our soldiers. A lot of credit for this goes to the Defence Parliamentary Standing Committee, who had pressed the EC to ensure this was introduced expeditiously.

Fight for a right

In 2013, when I first took on the issue of voting rights for the armed forces, many were shocked to learn that a large majority of the Indian armed forces personnel had never voted during their service. I raised the issue repeatedly in Parliament and wrote letters to the erstwhile UPA government and, also, had many meetings with Election Commission officials. I was only met with an apathetic stonewalling. I finally took on the then unresponsive government and filed a Public Interest Litigation (PIL).

The Hon'ble Supreme Court of India on 23 March 2014, in its interim order, on my PIL directed the EC to allow service voters, posted in peace stations, to register as general voters. Following the Supreme Court's further directives in the same case, the

government issued notification on 21 October 2016, amending rule 23 of the Conduct of Elections Rules, 1961 enabling service voters, including armed forces personnel, to cast their vote in elections through e-postal ballot. Thereby putting into effect much needed election reforms and minimizing delays in the archaic and non-effective postal ballot system.sam, No Causalities Reported

Ineffective electoral systems

World over, many countries have adopted some form of an e-voting or internet voting for their Military personnel. These include Australia, Brazil, Canada, Estonia, France, Netherlands, UK, Venezuela and the USA. The USA even has a Federal Act, called 'The Uniformed and Overseas Citizens Absentee Voting Act.' In India, the system provided to Service Voters as per The Representation of Peoples Act, 1950 — by the way of either Proxy voting or Postal voting had proved itself inadequate. Postal voting had failed because of long delays in sending out ballots to areas where

Defence personnel were posted. The postal votes rarely ever reached back to the Returning Officer in time for the counting.

The proxy voting system introduced by enacting The Election Laws (Amendment) Act 2003 in Parliament proved equally ineffective as complicated and long drawn formalities of verifying signatures of the individual and the Proxy and concerns over confidentiality of the choice of the Service Voter discouraged individuals from casting vote through Proxy.

When the rules changed

Interestingly, until 1969, servicemen could register as voters at their place of posting, but things changed when the losing candidate in a Nagaland Assembly election in 1969 went to court saying the results were skewed because of a large number of Assam Rifles voters. The Supreme Court ruling in 1971 that service voters can

register as general voters just like any citizen of the country was defended by the EC, however, in 2008, the EC passed an order that servicemen should have resided in their place of posting for at least three years with their families to register as general voters.

Guidelines that made it practically impossible for any soldier to vote in his posting station given that transfers happen every 18-24 months. No civilian voter was restricted with such a similar guideline and for years the EC's apathy towards the country's 23 lakh soldiers continued while it went out of its way to register voters in far-flung areas.

Enfranchising our soldiers

While the Supreme Court order of March 2014 and provision of e-postal ballot has enabled the uniformed soldiers and their families to become part of the democratic process of elections, much still needs to be done to ensure inclusion of all armed forces and paramilitary personnel and their families into the electoral rolls. The introduction of e-voting in these assembly polls is a big first step to ensuring this.

As on this date, according to the ECI, the total number of service electors stands at 14,72, 796 4 (10,52,056 male electors and 4,20740 female electors). Indicative that a substantial number of soldiers and their families are still not enrolled as voters. Also sadly, no record of method of voting or number of votes cast as general voters of service voters has been maintained separately, and postal votes during counting include those of poll officials too. Provision of voting for soldiers on poll duty in booths must also be made.

Ironically, amidst this long overdue enfranchisement there are some arguments of "politicisation" of the armed forces if the soldiers vote. Yes, there need to be clear, precise and strict guidelines on how political parties/candidates can canvas with Armed Forces

Personnel. These must include clear restrictions and prohibitions, if any, on contact with serving personnel as also the nature and type of canvassing content permitted by political parties to armed forces personnel.

But we must be in no doubt that our men in uniform who protect the sovereignty of the Nation will surely do right by the same Nation when it comes to fulfilling their duties as citizens. Soldiers and their families must be encouraged to vote because for too long they have been neglected, kept aside and denied participation in the National mainstream. It is now time for us to celebrate their victory to vote.

Parliament Must Declare Pakistan A Terror-State

Times of India

6th February 2017

While Pakistan has put 26/11 mastermind, Lashkar-e-Taiba founder and Jamaat-ud-Dawa (JuD) chief Hafiz Saeed under house arrest, the banned JuD used a familiar stratagem by reemerging with a new name: Tehreek Azadi Jammu and Kashmir (TAJK). Rajeev Chandrasekhar, independent Rajya Sabha MP from Karnataka and NDA vice-chairman in Kerala, has moved a private member bill in Parliament to declare Pakistan a terrorist state. The bill was recently discussed in Rajya Sabha and he spoke to Nalin Mehta on the reasoning behind it and whether it could achieve anything beyond symbolism:

You introduced the Declaration of Countries as a Sponsor of Terrorism Bill, 2016, as a private member bill and it is now being discussed. Is this just symbolic sabre rattling or do you hope to achieve something tangible?

There is no doubt in anybody's mind that Pakistan is a state sponsor of terrorism. This came into our drawing rooms on 26/11. In 2016, Pakistan began with a terror attack in Pathankot in which seven people lost their lives. This was followed by a series of attacks in Gurdaspur, Machil, Pampore, Uri and Nagrota to name just a few. The year 2016 itself ended with an attack in Pampore. In all, we lost 87 lives and 165 militants were killed in 2016. That Pakistan is sponsoring terrorism as a way of waging war on India is a widely known fact.

We as a nation have spent many years going around the world asking international countries to declare Pakistan a terrorist country. While we are the biggest victims of Pakistan's terror activities and we want other countries to declare Pakistan a terror state, it is a dichotomy that we continue business with Pakistan and not call them a terror state. It is high time that our Parliament, reflecting the will of the nation, goes ahead and declares Pakistan a state sponsor of terror. We have to re-architect and re-frame the narrative we have with Pakistan.

What does this mean in practical terms? For example, diplomatic relations and trade ties have not been cut: What specific steps do you want government to take?

The first step is articulation of the problem. The second step is piloting the bill and starting the larger discourse. One thing that governments and politicians are very sensitive to is public opinion. The tragedy in India is that public opinion on Pakistan waxes and wanes with terror attacks. The whole objective of introducing this bill is to start a discourse that discussions should not ebb and wane when there is a terror attack, that the people of India start a conversation on what our relationship should be with Pakistan, given that it is a terror state.

You want pariah status for Pakistan?

It is important that India should have one stand against Pakistan. We tend to get distracted by questions like should we be friendly with Pakistan, and by thinking that it is not Pakistani individuals or citizens who are responsible for atrocities against India but the Pakistan army. We give them a way out of what should be the rational anger of a nation against a nation.

Enough is enough. There is obviously a gap between the popular sentiment and political sentiment about Pakistan. The political sentiment has been way too pragmatic. We want the popular sentiment of India to get inside the door of Parliament and not just restrict it to sound bytes and periodic chest beating. We can't go back to saying we share the same culture, the same civilisation and keep getting distracted by non-issues like movies and actors.

You are pushing for government to take a realistic view of Pakistan, not an idealist one?

Exactly. I would like the government to say and do what they said after the attack on Uri: which is to say business-as-usual is not on the table and we are going to re-examine everything to do with Pakistan. Every one of the options we have as a nation should be put on the table: Most Favoured Nation status, the Indus Waters Treaty, trade restrictions and so on. Why should we allow Pakistan International Airlines flights from Karachi to Singapore over India? There are economic levers that we can use to legitimately express our frustration at Pakistan not living by the rules of being a civilised nation. When lives are lost in India they must be held accountable.

Isn't the international diplomatic climate also better for such a step?

The world is exhausted with terrorism. The world is done with alibis for violent crime. There is no justification for violent crimes against innocent people.

India Must Declare Pakistan A 'Terror State' Instead Of Having Outbursts At The UN

Firstpost

2nd March 2017

Are Indian policymakers tasked with chalking out a Pakistan strategy following the script of BJP-Shiv Sena relationship in Maharashtra? Fatuous as it may sound, India's recent actions give space for such a speculation to rise. On the one hand the Centre — citing the most laughable of excuses — says it will oppose a private member's bill to term Pakistan a 'terror state', on the other hand it throws the kitchen sink at its favourite *bête-noire* on yet another United Nations platform.

On the back of these confusing signals, it is time to ask some questions to the Narendra Modi government.

What is India's Pakistan policy? The current policy (if there is one) seems to be an unstable oscillation between naïve ad-hocism and macho posturing. How does it plan to tackle the relentless

cross-border terrorism being devised, abetted and executed from across the border? In the wake of increasing Pakistan-supported insurgency in Kashmir, what is the NDA government doing to ensure that violent insurgencies — such as the one we just emerged from — are not allowed to fester again into a gangrene? Beyond periodic impotent fulminations on UN forums, how is India planning to shape the broader bilateral relationship?

It must have become boring for the UN dignitaries to watch the habitual India-Pakistan pirouette. Islamabad will open the routine by raising India's "human rights violations" in Kashmir and call for intervention. New Delhi will retaliate by asking Pakistan to dismantle its jihadi factories and stop exporting terror. As an added attraction, recent exchanges have been peppered by India's references to Pakistan's state-sponsored atrocities in Khyber-Pakhtunkhwa and Balochistan provinces.

It isn't clear what strategic benefit this hackneyed routine brings for India, but the 34th session of the Human Rights Council in Geneva on Wednesday saw yet another staging of the charade.

Pakistan's law minister Zahid Hamid called India an "occupying power" bent on brutally snuffing out Kashmir's right to self-determination and added that India's narrative on Kashmir being an internal affair "is factually incorrect, legally untenable and in violation of the UN Security Council resolution."

Ajit Kumar, India's permanent representative to the UN in Geneva, mouthed the usual rebuttals.

In an apparent reference to Hafiz Saeed, he said, "During last two decades the world's most wanted terrorists found succor and sustenance in Pakistan." Referring to the spate of terror attacks in Pakistan's Sehwan, Lahore and other places resulting in the deaths of hundreds of civilians, Kumar added: "Pakistan has created terrorist groups against India, these monsters are now devouring

its creator.” Calling for Islamabad to vacate Kashmir before invoking UNSC resolution, he said Pakistan is “the true epicenter of global terror.”

Impressive. And completely meaningless.

Does the world need reminding that Pakistan is the global epicenter of terrorism? Not so long ago at the UNGA address in September last year, India had called Pakistan a “terrorist state” that runs from its soil the “Ivy League of terrorism” affecting the globe with its “toxic curriculum” and uses terror as an “instrument of state policy” which is a “war crime”. Smarting and outraged at the stunning attack on Army headquarters at Uri, India’s righteous indignation was evident. It appeared that the proverbial Rubicon has been crossed and words will now be translated into action.

And yet, just a few months after calling Pakistan a “terrorist state” at the UN, Rajnath Singh’s office informed the Parliament Secretariat that Independent MP Rajeev Chandrasekhar’s Bill, seeking to declare Pakistan a “terror state”, will be opposed.

Tabling the Bill in Rajya Sabha on 3 February, Chandrasekhar cited data from 1998 to 29 January, 2017, to inform the House that 14,741 Indian civilians have fallen to terror attacks and 6,274 security force personnel have lost their lives in this period while 23,146 terrorists have been neutralized. More importantly, he stressed on the need for India to walk the talk.

“Pakistan’s history and track record of fostering terrorism and terrorists is long and indeed distinguishable and incontrovertible... It is time that we stop running to other countries to declare Pakistan a terror state and stood up and did this job ourselves,” Chandrasekhar said during the presentation.

In response, a government official told *The Hindu* that such a move may “jeopardize international relations under the Geneva Convention”. What?

“We have diplomatic relations with the neighbouring country which includes High Commissions as well as trade relations. It will be not prudent to declare any country as a terror state as India is bound by international norms,” he was quoted by the newspaper as saying.

What diplomatic relations are we talking about? One that rewards Modi’s Lahore stopover with terror attacks? Or maybe one that fingers the old Khalistani wound?

Why were these considered views on diplomatic ties and trade relations absent when India was frothing at the mouth at the UN? Or is it that instead of a coherent foreign policy, we rely on a set of knee-jerk reactions?

When it comes to Pakistan, why do we fluctuate between vehement retribution and blissful somnolence depending on whether or not there is a terror attack? It does little for India’s image as a rising, ambitious Asian power and grossly undermines its geopolitical influence when New Delhi is seen as dithering and undecided in fixing its most pressing geostrategic problem.

As Chandrasekhar had rightly pointed out in a column for *The Times of India*, “the tragedy in India is that the public narrative and opinion about Pakistan, waxes and wanes with terror attacks.”

If we understand that Pakistan sees the asymmetric war as a legitimate foreign policy tool against a much powerful India, it stands to reason that we use the tools at our command to minimise our risks. Outbursts at UN or trying to diplomatically isolate Pakistan won’t have much bearing in an international order driven by mercantile ties, self-interest and realpolitik rather than idealism. We have tried smoking the peace pipe. It has remained ineffective at best and grievously injurious at worst.

Declaring Pakistan a “terror state” is a largely symbolic move. But it goes a long way in announcing India’s intent to the rest of

the world. As global geopolitical order goes through a period of turmoil, India's position as an emerging economic power and a democratic counterbalance to a revisionist China remains secure. We must seize the chance to tell the world that our patience with Pakistan is ending.

An Open Letter To Gurmehar Kaur

Indian Express

2nd March 2017

“No one wants war – we do not want violence after all India was born out of Mahatma Gandhi’s non-violence movement.”

Dear Gurmehar,

Let me start this letter to you by saying I have always held martyrs and their families with the highest respect. As the son of a veteran, I have lived my entire childhood among men, women and families who served and sacrificed. The service of Martyrs to the Nation is unparalleled and their sacrifices supreme. From Major Som Nath Sharma the first recipient of the Param Vir Chakra who laid down his life in the 1948 Indo-Pak War at the age of 24, 2/Lt Arun Khetarpal at 21 – and then who can forget Captain Saurabh Kalia, Captain Vijayant Thapar and Captain Vikram Batra – all a few years older than you are today. I have had the honour and

experience of engaging with families of numerous Bravehearts. It is true that most have no hate or revenge in their hearts – just a desire that others don't suffer the losses that they did.

And so let there be no doubt in your mind that most in our country consider you and your family as worthy of great respect – for the service and sacrifice of your father Captain Mandeep Singh. What you have gone through, the painful experiences in your life, no child or family should. Losing a father, a husband, son or brother in service of the nation, is a tragedy for any family. And for that, there is only humble salutations and unstinting support that we can offer.

So I consider it unacceptable that anyone in this great nation of ours would think of anything other than only protecting and supporting you and your family – let alone harassment and violence of the kind in recent days by some on social media. Let me assure you of my complete commitment to your total safety and to your right to speak your mind. That commitment is unambiguous and total – I assure you!

I have watched your video and heard your views with great interest. I admire your pluck and courage to stand up and speak what you believe in. Your father would be proud of your courage.

University is a point in life when you are free to experiment with thoughts and ideas, including idealism. So here are two points that I want to leave you to think about as well.

The first is the point you make about absolving Pakistan – while I understand your desire for peace, here is where you are wrong about Pakistan. It is not enough to blame killings today on an amorphous concept of war and look for peace. Over 15,000 people alone have lost their lives to terror attacks and so thousands of families have suffered and lost because of violence exported from across the border – into our territory, into our homes. This is the

stark reality we must understand. Many thousands of our men in security forces have laid down their lives while protecting against these terror attacks.

No one wants war – we do not want violence after all India was born out of Mahatma Gandhi's non-violence movement. But sometimes threats of violence and indeed violence are thrust on us and the nation's leaders can't be found wanting then. The 1962 conflict with China should teach us, what happens when seemingly sound moral positions run into nations with a strong force led doctrines of expansion.

Let me quote what President Obama said in his Nobel Peace prize speech in 2009, that may explain the conundrum – between this desire for peace and the need to be also strong militarily to defend ourselves.

“Violence never brings permanent peace. It solves no social problem. It merely creates new and more complicated ones. I am the living testimony of the moral force of non-violence and there is nothing weak, nothing passive, nothing naïve in the creed of Gandhi and King.

But I cannot be guided by their examples alone. I face the world as it is, and cannot stand idle in the face of threats to my people. For make no mistake: evil does exist in the world. A non-violent movement could not have halted Hitler's Armies. Negotiations alone can't convince Al Qaeda to lay down their arms. To say that force is sometimes necessary is not a call to cynicism – it is recognition of history; the imperfections of man and the limits of reason.”

So that's the thrust of the point I want to make to you. I admire your peace activism. But a desire for peace (even one as deeply felt as yours) will not make the terrorists in Pakistan surrender their weapons. In your desire for peace, we cannot forget that Nations

do have an obligation to bear arms to defend themselves, defend their people. You father did just that. He and all the others like him fought to protect these values. They didn't fight because they like war or hated the people in front of them – they served and sacrificed because they loved India and the Indians behind them.

So while I also share your desire for peace – peace doesn't come from simply desiring it, especially with Pakistan. We (both Indians and Pakistanis) must cause the Pakistan state to change its state policy of supporting terror and doing so by using all possible options and not simply begging or pleading for peace.

The second point is about debating Political issues. I am a strong advocate of young Indians being more politically active and aware. So if you choose to be active politically, more power to you. I am confident that you would carry with you, the values and principles that your father and family hold dear about our country and nationhood. But be aware that politics is as much about aligning with those who agree with you on some issues and at the same time ensuring that the same people don't have beliefs that are counter to your other core values like national integrity, etc. Also be warned, entering a political debate also means opening yourself to criticism and arguments – this should be expected. It's sometimes unpleasant and noisy – but that's the nature of the beast as it is today. So brace and prepare yourself as you plunge in.

I for one believe deeply in our Nation and its younger generation. I hope this letter helps you regain your confidence and composure after the last few difficult days. I also hope through this letter, you are also a little better informed about how others view Pakistan and its terror exports and the need to secure our people.

I wish you and your family the very best.

Jai Hind!

**Big
Bengaluru
Fight**

1

Bifurcation Is Not A Panacea

DNA

23rd January 2013

The problems Bangalore is facing are less to do with structure or size of the city, but rather of more fundamental issues of planning and institutional performance in terms of contracting and delivering public services. While splitting BBMP into two smaller geographies for better governance is not a bad Idea. But to believe that this is the solution/ panacea to the current governance crisis in Bangalore would be a gross misreading of the problems that exist.

The problems that citizens of Bangalore face are a result of many years of negligence and can only be solved by deep rooted reforms and changes in the way BBMP operates—at the heart of which is lack of planning, non-transparency in contracting and use of public money and assets and inadequate citizen participation. These problems cannot be solved just by simply diving Bangalore into

two zones. It is only recently that BBMP jurisdiction got expanded with a similar argument and we must remember that BBMP already has individual wards demarcated for better governance.

These are core issues that confront the city and none of these issues is likely to be resolved if the city is divided into smaller units as being envisaged. We need to reorganise and reform governance. In every successful modern city, citizens have a very powerful voice in the destiny and direction of development around their homes and places of work. With proper planning and implementation, Bangalore can be managed better and public confidence in administration and governance will naturally increase. This can be happen in the existing BBMP areas as well.

2

From Crisis To Crisis: How Government And Leaders Have Failed

DNA

21st June 2014

The Garden City, the IT Capital, India's Silicon Vallry, call it what you may, Bengaluru is a city that blends its rich cultural history with flourishing economic, technological and entrepreneurial energies, making it the symbol of a new India. But this city of potential that is today descending into urban chaos- is also a symbol of failed governance.

A city which can, through ISRO, send rockets to moon, develop technologies for companies' worldwide, but can't manage our waste and garbage — yet another visible symptom of rampant corruption, lack of transparency, flawed contracting system and vested interests that ail our city and are driving its governance strategy which have have rightfully, caused the ire of citizens.

Having to write about the garbage crisis brings a curious feeling of déjà vu. Every few months, and yet another problem surfaces. The problems Bangalore is facing, traffic, waste management, public health, public safety, corruption in contracts are more fundamental issues of governance, planning and institutional performance in terms of delivering public services. Waste Management is, simply a case not planning for the growth of the city.

There's no real plan for our city. Why not you may ask? It suits most people in government and the vested interests that influence them not to have plans. No plan means No accountability. No plan means use of discretion to award contracts. No plan means no scrutiny or transparency. The burden and consequences of unplanned growth of our city, is borne only by us the citizens that make up the city.

Neither the political leadership nor the bureaucratic leadership has a comprehensive plan for our city's development and related issues. The reluctance to adopt a plan and a planned approach to development and investment is evident. In 2010, many well meaning and thinking citizens working with ABIDe put together Plan Bengaluru 2020- an integrated vision on all issues related to Bengaluru – including solid waste management - with a way forward for them. The document emphasized the need for planning and reforms in governance of city - pointing out to dangers and costs incurred due to the ad-hoc approach to city and its resident's problems. It also dealt with how these problems will become much more difficult and expensive to address, if not resolved immediately - which now seems prophetic with reference to the garbage crisis.

Despite accepting the Report, successive governments have failed to implement recommendations. Except for election time promises by those claiming to care for Bangalore there has been little discourse in media or elsewhere about such a vital issue facing our city governance. The resultant chaos caused due to lack of

leadership, vision and planning is only too apparent with citizens bearing the brunt.

The resurfacing of the garbage crisis brings with it short-lived media frenzy and a barrage of suggestions to tackle the crisis, only to come back and haunt us again.

What the city needs is urgent Governance reforms and a planned approach to its development. This is only possible if the Government reconstitutes the Metropolitan Planning Commission (MPC) to reflect its true purpose of citizen participation. This reconstituted MPC, must put into place a multi-year statutory perspective plan and reforms for the city.

The Siddaramiah government, which was elected on a promise of good governance, must realise they're letting down the city and its people.

They cannot remain unquestioned while our city is destroyed. Unless the Government and elected representatives act responsibly, they can expect activism and agitation of the kinds we have seen elsewhere in the country.

The media and citizenry needs to play a bigger role in steering the debate to not just solving this crisis, but also 'steering' the political leadership to an integrated long term vision of our city and implementing this. Let us rebuild a Bengaluru that we can all be proud of again. It can be done and it should be done.

3

Bengaluru Should Not Be Denied Its Constitutional Rights To Elections

Times Of India

8th April 2015

Over the past few weeks, there have been attempts by the Siddaramiah Government to delay or defer the election to the Bruhat Bengaluru Mahanagara Palike (BBMP), due in May 2015. Such a move creates a situation where Bengalureans will be denied an opportunity to have a democratic elected city council and instead, be controlled by the CM and State Government - reinforcing a perception that this is being done to ensure that the rampant culture of adhocism, discretion & corruption in governance can continue!

Needless to say, not providing our citizens an opportunity to vote, denies them their fundamental right to have their say about the current elected corporators and elect new ones. This is against the spirit of the 74th amendment of the Constitution.

Away from political smoke screen, there are three fundamental reasons why the elections must be held without delay

This is a Constitutional mandate, as provided by the 74th Amendment of the Constitution and this move to deny an elected council is against the spirit of the 74th amendment.

People should have the opportunity to pass a judgement on the performance of the Corporation in the last 5 years. The election is a referendum on the performance of corporators. Citizens have the right to re-elect and support corporators who have worked in their interest and vote-out those who have failed to perform.

Increasingly, politics has become an area of interest for the youth/ younger generations and people from varied walks of life have chosen to involve themselves in public service, as the Delhi Assembly elections have shown. These new aspirants must be given an opportunity to participate in the democratic process.

In the last 2 years this Government has done little to start a genuine effort of addressing the real problems of the city. Even the effort at constituting the Metropolitan Planning Commission was delayed and far from creating an independent MPC, it consists of no experts and its members are the very ones that a MPC should be independent from. Even worse, the MPC has not even met once!

The Government even needed a rap from the High Court directing it to hold elections before May 30th to abandon its desperate bid to delay this democratic process! It is equally preposterous that those in Government claim that the trifurcation was a part of the party's manifesto which is being honoured. This only begs the question- why didn't the Government ensure this was implemented earlier, rather than the haste it resorts to now? Why did it not propose the trifurcation 6 months ago if it harboured the same concerns for the city it now espouses?

Citizens Have No Say

Citizens were not even consulted on this move that will significantly affect their neighbourhoods. Only providing lip-service to any consultative process, it completely disregarded recommendations of the three-member BBMP restructuring committee it set up, specially to consult on the move! While well-meaning citizens, RWAs and NGOs made representations to the Committee, none of them were considered by the Government, which set up the Committee in the first place!

The Government even made a slapdash decision to reserve 50% of seats for women, in the guise of ensuring women corporators are adequately represented. The ad-hoc nature of identifying these reserved constituencies though, reveals the handiwork of those in Government. Even a cursory look at the reservation list reveals that most reserved constituencies are those where sitting corporators are from rival parties- A move that will deny citizens a right to re-elect corporators who have performed well. This is a calculated move that ensures Government wins both ways. Were anyone to go to court questioning the reservation list, court proceedings would delay the elections, ultimately allowing the Government to further its agenda.

Bengaluru needs reforms and transparency not trifurcation

BBMP is already divided into 198 wards as administrative units. A sincere government would focus on ensuring reach of public services and infrastructure to each of these wards directly. It would focus on real problems of Bengaluru - rampant corruption, blatant misuse of contracts for private enrichment, administrative discretion being used to benefit vested interests at citizen's costs, a lack of accountability of municipal agencies and a lack of a code of conduct for elected representatives - none of which will be resolved if the city is divided into smaller units. In fact, the Government's

solution of trifurcation is worse than the problem it hopes to solve, as it increases the cost of governance and creates vested interests turfs.

The problems that Bengalureans face are resultant of years of negligence and can only be solved by deep rooted reforms in the way the city government serves citizens, including starting consultation through the MPC of a metropolitan regional development plan.

Trifurcation is deeply flawed and creates more problems

Trifurcation creates three structures increasing costs of Governance and dividing Bengaluru into three financially different pockets, without understanding its implications. The new corporations will just be pockets of economic haves and have-nots. A resource-rich corporation will house enclaves of prosperity, while resource-starved corporations will be unable to provide basic services to citizens. Look to New Delhi for proof. The Delhi Corporation was similarly trifurcated in 2011. Municipalities, suffering from unequal revenues are being considered for a re-merger now. Bengaluru can surely foresee a similar future if trifurcation is done in such haste.

Trifurcation is not a solution to any of the problems and challenges of the city. It is simply a smokescreen hiding the real political intent - delay BBMP elections.

I appeal to the Governor to direct the Government to honour the Court's decision and ensure that timely elections are conducted to allow Bengalureans to judge the current corporators as also to elect the good corporators that they rightly deserve. This is not about plain politics, but a fight to defend democracy in Bengaluru- A fight to protect Bengaluru's democracy and reject and delay in elections!

Politics Cannot Trump Democracy And Constitution: Free, Fair And Timely Elections Is A Part Of The Basic Structure Of The Constitution And The Fulcrum Of Democracy

Times Of India

16th April 2015

The city has been watching with some bemusement and increasing anger the efforts by the Siddaramaiah Government to using trifurcation of BBMP to delay or defer the Bruhat Bengaluru Mahanagara Palike (BBMP) elections. The plan being to then administer and control Bengaluru directly without an elected council – qualifying as one more conspiracy that puts politics over citizens and constitution. Elections and voting for local government being a constitutionally mandated right under 74th amendment of the Constitution.

There are now reports of the Government wanting to convene an emergent session of the Legislature, in an attempt to legislate a deferral of BBMP elections. The rush to undertake a legislative

repeal of a judicial decision, even before the appeal process is concluded, demonstrates the State Government's scant regard to the Constitution and the philosophy underlying our constitutional democracy.

What the Supreme Court Ruled

The Supreme Court has, as early as 1975, in the case of *Indira Nehru Gandhi v. Raj Narain*, declared that free, fair and timely elections, is a part of the basic structure of the Constitution. Article 243-U mandates that an election to a municipality shall be conducted and completed before the expiry of every five year term of such municipality. Timely elections, therefore, is fundamental to our Constitutional democracy and the starchy of our Constitution does not permit either the Executive or the Legislature to deny the citizens their absolute Constitutional right to timely elections.

The High Court of Karnataka has, on March 30, 2015, directed the State to conduct and complete entire electoral process for the BBMP elections before May 30, 2015. The excuse of trifurcation to delay BBMP elections was specifically rejected by the High Court. On an appeal filed by the State to the Division Bench, no interim orders were granted. This leaves no room for the State but to hold elections in accordance with the Constitutional mandates. The writ appeal is yet to be heard finally by the Division Bench of the High Court. Even before the appeal is considered by the judiciary, the State attempted to override a judicial decision through an ordinance, which again is unconstitutional on the face of it.

Failure of Constitutional Machinery in the State

The founding fathers of our Constitution visualized such situations as well and provided for a mechanism in the event of a failure of constitutional machinery in a State. It is not necessary in such a case that President's rule must be declared under Article 365 of the Constitution. Doing so would be to use a hammer to swat a

fly. A failure by the State to conduct elections to a local body in accordance with the mandates of Article 243-U of the Constitution, is a clear demonstration that the State either lacks the intent to follow the Constitution or has led itself to a situation where it has failed to abide by the Constitution, at least with regard to elections to local authorities.

Given that the State Government in Karnataka is dithering to hold elections to BBMP despite a constitutional mandate to do so under Article 243-U and despite the orders of the High Court of Karnataka, a situation has arisen where the President can and should, under Article 356, assume to himself those particular functions of the Government with regard to conduct of elections to BBMP. The President can issue directions under Article 356 for the conduct of free and fair elections to the BBMP immediately such that the entire electoral process is concluded by May 30, 2015. This action would also be in absolute compliance with the orders of the High Court of Karnataka and would ensure that the citizens are not denied their constitutional right to timely elections.

The BBMP elections are important because they are a referendum on the performance of the BBMP in the last 5 years. Bengalureans must have an opportunity to pass a judgement and re-elect those who have worked in their interest and vote-out those who have failed to perform!

Chief Minister Siddaramiah must stop this Political game-playing drop the reported move to convene emergency Assembly Session, whilst his Government 's appeal is still in High court and instead do what law abiding Government's do – respect the ruling of High court and constitution and have elections as scheduled before May 30th Free, Fair and Timely Elections is a part of the basic structure of the Constitution and the Fulcrum of Democracy.

5

When Most Of Us Don't Vote, How Can We Have Good Corporators Or Governance?

Times Of India

18th June 2015

Now that the political shenanigans of the State Government to postpone BBMP elections through the “abuse of court process” have been exposed thanks to the Supreme Court ‘s and Justice BV Nagaratna’s intervention, we can now expect elections by July end to the Bengaluru Corporation BBMP by July end.

Expectedly political parties will go overboard with many announcements of projects for Bengaluru. But what is required is to for all of us to confront the harsh reality of the crisis facing our city; Governance in Bengaluru is presently characterized by Zero Accountability for the loss of life and limb when negligence results in innocent children being washed away in open drains; Misuse of public assets like land earmarked for parking being converted into Commercial malls and deliberate encroachment or give away

of land worth thousands of crores to politically connected ; Real estate projects unchallengedly encroaching on Lakes , Siphoning of public money through ‘projects’ that no one wants or do not exist; Misuse of administrative discretion to benefit commercial interests over citizen interests by permitting illegal commercialization of residential areas and the spreading tentacles of vested interests and corruption into all spheres of city governance. The chaos and the need for rapid solutions has in turn created a space for vested interests and well-meaning but amateurish efforts by ‘experts’ in turn being selectively used by political and vested interests

All this is reducing our city to one where citizens have to be either helpless or legally fight even for the basic responses from the Government/agencies. The number of PILs and cases against the Government are on the rise, and increasingly as was obvious in recent cases relating to Lakebed encroachment or Land grabbing.

But Democracy and the 74th amendment of our constitution didn’t envisage, our quest for Good government would be through PILs and non-Government ‘experts.’ It envisaged the elected representatives doing the right thing by our city and working to strengthen administration.

Crisis can be a catalyst for change, but when we all take the time to understand, then the change will be the right type of change. And so the upcoming BBMP elections are an important step in the quest for good, clean Govt that we deserve.

Only Good Citizen Centric Govt Will Make Bengaluru Smart City

A true assessment reveals the following reasons for the ugly reality of Bengaluru.

Firstly, Bengaluru is fast following the fate of other cities like Mumbai – transforming from a well governed city to a urban sprawl with chaos and rampant corruption where builders, contractors, bureaucrat, political nexus is running things with no institutional space for citizens and resident groups.

Secondly, that there is no lack of money - that the issue of urban renewal is more than simply funding a few projects every year per city as failure of JNNURM – it's about a medium term development and growth blueprint for each city that is distinct and unique to Bengaluru - and a framework of public and private investments that drive the building of that blueprint, built on top of sound financial and revenue generation in the city. Bengaluru finances are in a mess and we can't invest in services and infrastructure, because of rampant revenue leakage and Asset pilferage.

Thirdly, there is a real urban governance deficit and consequent corruption that needs to be stopped. The current 74th Amendment isn't complete and is vague in many areas where it needs to be specific. Currently, municipalities are the worst form of governance with rampant corruption and conflicts of interest. There are no functioning Institutions in Bengaluru almost all of them having being corroded or captured by political or vested Interests. This issue of lack of governance and increased corruption is even more ominous, since with the 14th finance commission city governments will now get increased direct funds from Central tax pool of almost Rs. 2,48,000 Crores for all Local bodies. Imagine putting all this money in an unchecked corrupt set of hands!

For Bengaluru to be a smart city, it must be a well Governed city and that requires committed Corporators in the BBMP, pushing change and reforms. That there has to be change in the political and Governance model of our city if we are to save the City. Chief Minister Siddaramaiah who was elected on a promise of Good Governance has done very little. The erstwhile BBMP whilst it had some good Corporators, had become known more for its reputation for corruption and brazen conflicts of interest.

Too long, political and other forces have distracted the city and people from the real threat and real solutions by various farces. The recent move to push trifurcation is another example of this.

Or Free Wi-Fi. As if free Wi-Fi or trifurcation addresses the issue of corruption and lack of investments in infra and public services! 'Solutions' that do not at all address the core issue of mal-governance and administrative failures in the city. Unless, we address that, it's simply taxpayer and public money that will be wasted on these 'solutions'.

Governance reforms and cleaning up corruption is even more critical. When future of cities will depend on increased investments from Private sources of capital and better management of its public finances, Political change is the most important 'solution' we require for our city and political change comes when citizens come together to trump both the vested interests and long held beliefs.

Ironically, the most important elections for our city i.e. BBMP elections, is one where 56% of Bengalureans didn't vote, with even fewer amongst the middle class and youth voting. These coming BBMP elections can be the turning point in our quest for good Corporators and Government. Bengaluru can and must develop into a smart well governed city for its citizens and residents. It's time now that more of us took an active and informed interest in directing our city's future. Please register to Vote and get involved heavily in these elections for your sake and mine and for the sake of change in our cities political system. Only our vote can show our collective quest for good and clean Corporators and Governance for our Bengaluru.

6

Govt Trying to Scuttle Election Process

Deccan Chronicle

6th July 2015

I am surprised to see the attempt of the Government of Karnataka and some Ministers, including the District In-charge Minister, to misuse the orders of the Honourable Supreme Court granting 8 weeks' time to conduct and complete the BBMP election process. This is politics and clearly is an attempt to play fraud on court. The Government of Karnataka requested the Supreme Court to grant further time, for the conduct of elections and for nothing else. While granting further time, the Supreme Court also restored the earlier orders of the Single Judge of the High Court of Karnataka which mandated the State Government and the State Election Commission to conduct elections on the existing delimitation of wards.

The 8 weeks' time granted by the Supreme Court can therefore be used only to initiate actions in furtherance of the BBMP elections, such as enrolling voters, updating electoral rolls and undertaking further electoral process. If the Government of Karnataka and its Ministers believe that this time of 8 weeks can be used to play political games such as accelerating the trifurcation process so as to evade the elections completely, they will not only be committing contempt of the Hon'ble Supreme Court but also be in utter disregard to the Constitutional mandate.

The State Election Commission has the responsibility to ensure that free and fair elections for the BBMP are conducted in accordance with the Constitution and in accordance with the directions of the Hon'ble Supreme Court.

I am urging the State Election Commission to ensure the poll code of conduct continues in force and it notifies fresh dates for elections at the earliest. If despite the unambiguous orders of the Hon'ble Supreme Court, the Government attempts to induce ambiguity and scuttle the electoral process, I will invoke the jurisdiction of the Hon'ble Supreme Court for further directions and clarity.

Government Apathy Spells The Death Of Bellandur Lake

Deccan Chronicle

5th November 2015

The killing of Bellandur Lake has become a shameful symbol of the decline of our city and everything wrong with Bengaluru. As a lake that has been part of our city's history for decades slowly dies, the administrative and political apathy to this is also a visible example of the cause of the decline of our city.

Bengaluru's largest lake is spewing fire and foam. Once a lifeline for many villages and source of ground water replenishment, it has now become a curse for locals. The froth and flame spotlight the apathy on one hand and more importantly to brazen, unpunished violation of laws and guidelines by many. The apathy by Government agencies has led to Bellandur Lake becoming a sewage pit and with seemingly no one accountable either within these regulatory agencies or within private individuals and corporates

that are violating it. And residents and citizens have to be happy with platitudes by various Government functionaries ending with the usual bland announcements of money being allotted or sought with not a word about punishment or enforcement! Its time this stopped - the government must order an immediate clean-up of the lake and also an enquiry on what and who is responsible for this. Unless we do the latter, this situation will re-occur elsewhere again.

The facts are alarming:

In a water sampling carried out by Lake Development Authority (LDA), Bellandur's water quality has shown continuous deterioration with high levels of pollutants and chemicals. What causes the fires? Indeed, industrial effluents are a key element. According to the findings of Prof TV Ramachandra from Centre for Ecological Sciences (CES) connected to Indian Institute of Science, water bodies in Bangalore receive huge amounts of untreated industrial wastes which results in formation of foam. His study says the fire in Bellandur Lake is due to a mixture of industrial effluents and phosphate. He emphasizes that "a dysfunctional system comprising of too many para-state agencies, lack of coordination among them, and a complete lack of accountability, compounds the problem".

The report further says, while Bengaluru's built up area has risen by 466 % between 1973- 2007, the 51 active wetlands have dipped to 17 in the same period and number of lakes have dropped from 159 to 93.

The mega commercial project planned in the Bellandur – Agara lakes corridor in the first place, came up thanks to many violations and zoning approvals that seem to have been granted despite all zoning regulations declaring the area as sensitive. Master plan zoning maps reveal several survey numbers of the project site

fall under categories 'public utility, valley and Bellandur lake-bed zones and canals' that cannot be allotted to private enterprises for development. The state Government agencies have remained a mute spectator for reasons that are mysterious! Fortunately, the courts have ridden to the defence of the city with the National Green Tribunal (NGT) intervening through its order of 2nd Nov 2015 restraining all construction activities from being carried on with respect to eight projects around the water body until further orders.

The implications are not just on environment, these have a direct impact on public health also, as residents are exposed to growing respiratory and skin ailments besides having to live with the horrible stench. Expectedly all of this is making Bengaluru a city with increasing numbers of frustrated citizens who have to repeatedly use agitations and PILs to get the attention of the ruling class.

The recent Change.org petition by Sanchita Jha to the CM is one such example of citizen frustration. It has gathered many thousands of signatures including my support – all demanding a “Clean-Up of Bellandur Lake”.

Why is this city which houses some of the best companies and is home to launching space-crafts and start-ups, suffering? Why is this Government not showing the determination and capability to handle these kinds of challenges to our city's growth and development including Bellandur Lake? Who has brought this situation to pass? What is the government doing to stop the continuous flow of polluted effluents from entering the lake or to stop land encroachment by real estate companies on the lakebed and on the adjoining Stormwater Drains (SWDs)? Reactive stop gap solutions as sprinkling chemicals and putting a mesh around are not going to save Bellandur Lake. Asking the Centre for Rs 250 crore is an incompetent way of addressing an immediate problem

and if that were the only solution, what took so much time to find out that sewage treatment plants need funding?

Bellandur Lake is yet another symptom of the rampant abuse of our city. As I have said repeatedly, we need a planned approach to all our challenges including the status of our lakes, water and public health – all interconnected issues that need to be dealt with in a coordinated way. The appointment of a new Bengaluru Development minister as a full time accountable position within the Government is a good first towards addressing the issue of accountability for Bengaluru. Now the ping-ponging of responsibilities between various agencies responsible for Bengaluru will stop and citizens can look to a clear accountable Government. The new Minister for Bengaluru KJ George has decades of apathy and abuse of our city to clean up and I hope he starts first with Bellandur Lake.

8

Neither Smart Nor Clean: Bengaluru Becoming An Unlivable City

The NewsMinute

12th April 2016

As Bengaluru continues to lose its edge in all benchmarks of quality, its fall from the 7th position in the list of clean cities to 38th is an indication of prolonged neglect by the administration.

This dubious distinction follows another failure – of not being considered at all in the top 100 smart cities list, not being even eligible to be counted in the competition.

The fall of Bengaluru is gaining momentum with frustrated citizens wondering whatever happened to its erstwhile titles of “garden city” and “lake-city” given its current popular description being “garbage city” or “potholed city”!

That plunging image of the City is symbolic of a massive trust deficit among citizens who feel betrayed by successive apathetic and corrupt administrations. Corruption and lack of accountability

is now synonymous with Bengaluru - as precious lake beds are encroached by unscrupulous builders; potholed roads managed by corrupt contractors spread across the city; a garbage crisis that refuses to go away despite crores of taxpayers' and public money going into funding it; and state agencies function without having their financial accounts audited for years together. Mal-governance and malfeasance are visible everywhere!

In the 2014-15 budget, the city's civic agency BBMP was allotted Rs. 2160 crore for road infrastructure projects. Accounts show projects worth Rs 1,000 crore were approved, of which no details exist of how Rs. 461 crore was utilized. In 2015-16, BBMP's allocation for roads and storm water drains was Rs 1882 crore; where is the money going as bad roads and open drains continue to take innocent lives?

BBMP spends huge amounts on Solid Waste Management; Rs. 415 crore was allocated in the budget for 2015-16 but as Bengaluru continues to face a garbage crisis, nobody knows where this money has vanished.

Bangalore's citizens face misery on another count. The city's lakes are dying and are in urgent need of rejuvenation. A report by Prof TV Ramachandra of the Indian Institute of Science, Bangalore - Pathetic Status of Wetlands in Bangalore, reads "Citizens of Bangalore allowed the development in the region with utmost good faith - contaminated air, land and water are the penalty citizens have to pay for exercising tolerance with good faith. Numerous para-state agencies with un-coordinated actions, inefficient regulatory agency and negligent industries have converted the garden city to unlivable city. Clean air, water and environment are the fundamental rights of citizens as per the Constitution of India (Article-21)"

Bellandur Lake, the city's biggest waterbody put Bengaluru in the global news for the worst reason possible – once a lake full of

life; it has gradually transformed into a sewage tank. The case of Bellandur Lake is one of fundamental neglect and decay for the last twenty years. While most of the public discourse on Bengaluru is focused on roads and traffic, the silent destruction of this Lake and unabated pollution of other lakes in the city has dangerous consequences for public health and environment, the cost of which will be borne by future generations.

Citizens of Bengaluru and the administration must go beyond transportation issues, for while these cause short term inconveniences of a few hours a day, the lakes getting poisoned and destroyed is a critical environmental problem that will damage the city irreversibly and permanently.

This should not appear as a mere account of the dismal state of our City, but an urgent wakeup call to action that the Government must take seriously. The population of Bengaluru has risen by 30 lakhs in 10 years or 47% during 2001-2011, but its social indicators have nosedived. There is no lower the city can fall and it is time the administration rose to perform duties that it is supposed to.

I had earlier reached out to Chief Minister Siddaramaiah for putting in place a long term plan for the city. Bengaluru needs a proper statutory long term plan, including a financial plan. The Bengaluru Development Authority (BDA) is working on a plan, but that process needs to be made transparent involving citizens and NGOs, and then placed before the Bengaluru Metropolitan Planning Committee (MPC) where again it must be discussed transparently.

Bengaluru, more than any other city in India, needs to wake up to the looming danger of irreversible damages to its environment and public health ecosystem in addition to its other challenges of mobility and public services.

9

A Win For Bengaluru's Fight Against Negligence And Corruption

Times Of India

5th May 2016

In an unprecedented ruling, the National Green Tribunal (NGT) has given a big boost to citizens and NGOs fighting the negligence and corruption that is slowly but surely killing Bengaluru - in a case of environmental jurisprudence trumping vested interests.

This verdict by NGT marks a victory in the struggle of Bengalureans to reclaim the Lake from the nexus between corrupt officials and builders.

I congratulate Namma Bengaluru Foundation, Forward Foundation and the RWAs for fighting this good cause to protect Bengaluru. This was a worthy fight and a fight that needed to be won. The fight for Bengaluru's lakes is not just about reclaiming beautiful water bodies. It's a fight for environment, water, sustainability and public health. This, along with the recent efforts to save

Bellandur Lake, marks a big directional change in how the city and Government plans for its future.

This judgement also represents another important change. For too long, citizens and NGOs have been helpless spectators to the rampant loot and exploration of our cities' land, lakes and resources. A visible and brazen nexus between some builders/contractors with those in Government - paying short shrift to citizens' views and rights. This ruling changes that dynamic. The message now is - Citizens have rights and all those who trample on those rights and laws will be given no quarter.

This particular massive commercial project covering approximately 80 acres on the valley land adjoining the Agara Lake in the Bellandur–Agara Lake corridor exposed the entire ecosystem to severe threat of environmental degradation encroaching upon the catchment and wetland areas which feed the Rajakaluves (Stormwater drains).

State Government and officials of the city agencies remained mysteriously mute, and perhaps, complicit. As has become the norm nowadays, it takes the courts and our judicial system to come to the rescue of citizens, and even MPs like me, on issues of rights and corruption.

The NGT has truly lived up to the trust and faith that citizens have in the judiciary. The NGT, in a first, has set a higher threshold of buffer zones for construction around lakes and Rajakaluves in Bengaluru and levied huge penalties of Rs.130 crore on both builders while quashing all environmental clearances and sanctioned plans given to them. Going a step further, it has directed demolition of all other violating projects falling within such buffer zones.

All these years, our lakes and water bodies were vanishing because of the criminal nexus between officials in the government and builders. What it required was a concerted effort by a group of

determined people to see this fight through the legal process and get justice. This has been achieved by some NGOs and likeminded citizens with a little help from me resulting in this landmark victory that will go a long way in the conversation of Bengaluru's pristine water bodies. I would encourage more and more NGOs and citizens to come together on a common platform since now there is proof that working together, we can create results in this big fight to protect and reclaim Bengaluru.

As far as this case goes - an important milestone has been reached. Illegalities have been proved. Now the real step is to prosecute all those in Government who were willing participants in this. And to investigate whether there was a criminal conspiracy to defraud the people of our city. We will be seeking sanction of prosecution against all corrupt officials, who were responsible for this kind of ecological disaster by allowing construction on the buffer zone and catchment areas of the lake. They should be punished to ensure that these incidents are not repeated.

The NGT judgement is indeed a big achievement for Bengaluru – a day when citizens have scored over builders encroaching lakes and illegal construction. To paraphrase Neil Armstong - a small step in our fight for Bengaluru, but a giant leap to protect our lakes!

Don't Undermine Constitutional Role Of MPC: Nominate Vision Group Members On MPC

Bangalore Mirror

11th May 2016

The constitution of the Bengaluru Blue Print Action Group (BBPAG) by the Chief Minister of Karnataka may be a well-meaning, belated waking up of our Chief Minister. To many, this may be a continuing tradition of CMs having high profile groups for 'vision' for Bengaluru. SM Krishna had his BATE, BS Yedyurappa had his ABIDE (of which I was Convenor), and now CM Siddaramaiah has his BBPAG. But despite all these visions and visionaries, Bengaluru continues its downward spiral of Mal-governance, negligence and rampant corruption. Lakes die, water tables disappear, garbage piles up, public health suffers, land gets encroached/given away, tax revenue leaks etc. continue unabated.

So if forming of this Vision Group is an indication that our CM has woken up to Bengaluru's decline, malgovernance and corruption - then I welcome it.

But even then, it's a flawed decision and is violative of law. The Constitution's 74th Amendment mandates cities to create a Metropolitan Planning Committee (MPC) - a statutory body that is responsible for the planning function in a transparent, consultative manner. The GoK under pressure from many, including me, and also the Government of India, created the MPC in 2014- 2015 - and despite my requests that MPC be independent and have outside experts also - has filled it with corporators from BBMP and some officers. MPC should have outside citizen participation, and that has been given the go-by. The MPC has not met even once in all these months! All of this would be laughable if it wasn't so outrageous.

So now comes this Vision Group. What is its role vis-à-vis MPC? Is it undermining and making redundant a constitutional institution? It's an interesting irony for a CM of a political party that has cried itself hoarse on constitutional propriety in recent days. As it is now, this Vision Group undermines the constitutional sanction of the Metropolitan Planning Committee (MPC) which is authorised to create the Master Plan for the City and lead the implementation of projects.

So whilst I am not opposed to bringing eminent citizens into serving the city, we must be clear that this part-time philanthropy by the leading lights is not a substitute to MPC's institutional responsibility and responsibility to the planning function. Planning must be transparent and in full view of public. Planning must address the same refrain of roads, but an overall focus on all elements that our growing and declining city and all residents face. The MPC envisages a specific role for ward committees, citizens, RWAs and NGOs. Article 243ZE of the Constitution explicitly mandates the MPC as the constitutional body for drafting development plans for the city.

What's the way forward? Now that it has woken up and signalled an interest in Bengaluru, the Government must make it a priority

to build up the MPC and its capacity. The members of this Vision Group can be nominated to MPC or the Vision Group can be made an Advisory Group to the MPC. That is the right way to build up a permanent solution to our city's planning woes. If this isn't done, this decision, and indeed the functioning of the group, would be violative of the 74th Amendment.

In addition, the Government must broadbase the citizen representation, and not restrict it only to 'big' names and businesses. Bengaluru has an active civil society, NGOs and RWAs. They must be well represented in MPC or this new MPC's Advisory Group.

Bengaluru is confronted with a serious crisis and is well on its path to becoming an unlivable city. Every year, promises are made and broken by Governments and those in charge of the city. Corruption has gone from being rampant to being all-pervasive with flouting of laws being the norm, rather than the exception. All creating a culture where negligence and apathy to public lives and service and misuse of public money and assets are the general rule.

Everyone is aware of the political and bureaucratic class' desire to either not have planning or to control the planning because of the enormous discretionary powers they can exercise and the Corruption that generates. So for me and many others, this issue of protecting and building MPC is an article of faith for our city. The creation of MPC by a reluctant Government was made possible after several letters and interventions with Chief Minister through 2013 to 2015 expressing my concern regarding the severe governance deficit in Bengaluru.

The government needs to build a new comprehensive, multi-year plan formed through a process of genuine public consultation. The plan must address fundamental issues of statutory planning for the city and include the voice of citizens through representative Groups and RWAs.

Our city's decline needs to be stopped and a new period of urban renewal kick-started which our city and its hardworking citizens deserve. That is the only way to reverse the many years of exploitation and to reposition our city as a gateway to investments for our State and the country.

I welcome our CM's belated waking up and inviting a group of some illustrious citizens of Bengaluru to serve our Bengaluru. But I caution him not to do so at the cost of undermining or weakening a constitutional body. Citizens of Bengaluru have learnt to fight against what's wrong, and they will.

Steel Flyover Project As Purely Contractor And Politically Driven

Deccan Herald

6th October 2016

As a citizen of Namma Bengaluru and a Member of Parliament from the city, I have no hesitation in referring to this Steel Flyover project as purely contractor and politically driven since the proposed project is neither citizen-driven nor plan-driven. It is a blatant misuse of public money with the project not being placed before the constitutionally set up Bengaluru Metropolitan Planning Committee (BMPC) and no impact study available in public domain on this unplanned burden being dumped on Bengaluru.

Why, I ask on behalf of citizens? What is the outcome of the farcical public consultation the BDA claims to have held a few months ago? The project shows dubious intent with many unanswered questions - the haste, the design, issues of maintenance, aesthetics and beauty of our city and its heritage buildings, the impact on

environment.

Answers must be made public on each and every crucial aspect of the project namely:

1. Specifications of the project such as detailed plan, cost & timeline including Detailed Project Report (DPR).
2. Details of land (Public & Private) required along with status of such acquisition.
3. Details of various impact study including environmental & heritage - Media reports suggest 800 or more fully grownup trees will be cut down.
4. Details justifying reasons for why only Steel Flyover and not concrete flyover like any other existing flyovers in the city with a possibility of interlinkages with future constructions and elevated corridors, if any.
5. Details of existing infrastructures / heritage buildings that would be demolished
6. This project is not part of the Master Plan, whereas many other works that should have been taken up under the Master Plan have not been carried out. What will be the impact on the rest of the Master Plan in the area after such revision to the Master Plan as a result of this project?

The administration and civic bodies must seek and respect the opinion of citizens and recognize the strong opposition from Environmentalists, Urban planners, Ecologists, Transport Experts and Bengalureans as evidence of the fact that citizens are willing to assert their right to have a say in the development of the city. Our people and our city and state deserve better than what we are seeing today. The Government of Karnataka and its agencies are dealing with public money must be held accountable for the use/misuse of same.

12

Don't Reward Law Breakers: Akrama Sakrama Needed to Aid Poor, Not Greedy Builders

Times Of India

15th December 2016

Akrama Sakrama is like many political slogans – Corruption masquerading as a program to help the poor. Our state and Country has seen this many times before.

Namma Bengaluru is in decline – helped by a nexus between those in Government and an unfettered and unchallenged control of Government by a coalition of vested interests consisting of Builders and Contractors. Evidence of this is visible everywhere – the number of powerful politicians and bureaucrats with interests in real estate and contracting, recent raid on Government officials with large amounts of cash and Gold – the signs are everywhere around us.

This collusion around public money and land lies at the crux of corrupt politics in Bengaluru. Through Akrama Sakrama, the

government is more actively rewarding this culture of corruption. In its current form, the message is: a lawbreaker stands to benefit than a law-abiding citizen! I have repeatedly urged the Government to consider a rethought proposal for Akrama Sakrama that ensures benefit for the poor only and not builders. Predictably the politicians benefiting from this have fed the canard that all illegal constructions are dwellings of the urban poor. The reality is that Akrama Sakrama in its present avatar will also legalise all illegalities of crooked real estate developers and other high income home owner-violators; this is the opposite of what rule of law really entails where the law abiding citizens gain and lawbreakers are punished.

There are several issues that remain deliberately vague –

- 1) Why are home owners being penalised whereas builders and developers escape punishment;
- 2) What about criminal action against those in Government whose negligence or deliberate connivance allowed/benefited from these deviations;
- 3) How is this regularization going to be audited;
- 4) What prevents another round of corruption given that Government is essentially sending a message that corruption and lawbreaking doesn't endanger anyone;
- 5) And finally, the larger question about a culture being created where lawbreaking is encouraged and why should citizens comply with laws when new amnesty schemes will be rolled out to protect violators and criminals?

If the Government is truly serious about its intention to help the poor as they claim, it must revisit the Akrama Sakrama scheme and reconfigure it into one that warrants a strong qualification criterion to ensure that only the poor and truly deserving benefit. The reworked scheme should envision a programme for building

homes for the poor that directly address the gap in urban poor housing capacities in our city. A revised legislation should aim at ensuring strong compliance through punitive measures for violators – both builders and errant officials.

Again, the revenue raising justification of the Government is laughable. When there are rampant revenue leakages, fake and inflated contracts, and land is being given away – for the Government to pretend that Akrama Sakrama is to mobilize resources, is a joke. If the Government was serious about mobilizing resources, it would have focussed where it should – reforming contracting, use of public assets and tax leakages that have been all reported by CAG. Maybe the Government can ask some of its recently arrested chief Engineers to return corruption moneys – that would be a faster and better way to raise money for the city's development. To argue that legalizing, illegal acts is a way of raising money by Governments' is what banana republics do - there are few countries in the world that do that, but should Namma Bengaluru follow this?

Akrama Sakrama will certainly help the poor. But let us be clear, it has been designed to bail out builders, the rich and powerful from their illegalities who instead of being punished under law will now benefit financially. In many ways, Akrama Sakrama is symbolic of the failures of Governance and how deep vested interests have corroded and entered every facet of governance.

13

New Year's Eve Horror in Bengaluru

Bangalore Mirror

3rd January 2017

3 years ago in Dec 2013, a young girl Jyoti Singh became victim of a horrible crime, etched in all our memories as Nirbhaya. That was Delhi and this is now in Bengaluru as many women instead of experiencing the simple joys of bringing in the new year, had to face the horror of mass molestation.

Just as politicians and bureaucrats rushed to deflect the attention from the crime during the Nirbhaya episode, similar is the case today with this Government's indefensible statements blaming women for their dress sense and every other conceivable reason to blame the victims for the crimes committed on them. Expectedly you also heard some try and make this an 'outsider vs insider' debate or worse still a rich vs poor one. All sad attempts at ducking responsibility of the crime that happened.

But be that as it may – an expected response from the Government that seems to have long abandoned even a shadow of accountability and responsiveness to citizens – the facts need to be brought to the attention of this Government and all of us.

To start with, it is clear that the Chief Minister and his Government needs reminding of a simple but important fact that they seem to have forgotten - an elected government, its ministers and the police are obliged to provide law and order and safety to all its citizens. This is a constitutional mandate and responsibility imposed on any self-respecting elected state Government. This responsibility is unambiguous and covers every man, woman, child and senior citizen. However, forgetfulness of their duties seems to be repeating itself frequently with this Government.

To the Home Minister, I point out respectfully there is no provision in the Constitution or indeed the laws of this State that dilutes his responsibility or the responsibility of the police to provide protection based on sex, or dress code. India is not Saudi Arabia and Bengaluru is not some city out there. It is part of a constitutional democracy that provides Rights to all Citizens. To him and the new Police Commissioner I would like to further point out - crimes were committed on the night of 31stDecember. I can quote extensively all the laws in Criminal Penal Code that were violated that night including outraging the modesty of women, attempted rape, etc. – in violation of Sections 294, 354, 509 among others. These crimes need to be investigated and criminals identified and prosecuted. The Commissioner of Police's statement claiming victims should go to the police in order to initiate investigation is shocking, insensitive and professionally unacceptable. The police have the powers and ability to Suo-Moto investigate these crimes, file FIRs – especially when media, both TV and print have so much footage of the crime.

The prompt professional response to these crimes is vital for the professional credibility and reputation of the Bengaluru Police as an institution and for Bengaluru as our city. The political leadership and the current Government will be consigned to history soon but the police as an institution is a permanent one that will need to earn back the trust of the people it serves.

The signs of apathy and neglect of Bengaluru and its citizens are just too frequent to ignore with this Government. Childrens' safety, environment, zoning laws and the list goes on endless – but except for childrens' safety, most others can be perceived to be victimless. However, when it comes to crimes against children, women and the elderly – a Government is expected to have a zero-tolerance approach to fulfilling its duties and protecting them – which it has failed to do on Dec 31st, 2016 leaving many innocent girls scarred and abused.

Mr Chief Minister, with great respect you let them all down!

The larger questions remain - why is the Government dithering on investigating these crimes? Why did the Government not give clearer directions to the police about the safety of its people on New Year's Eve? Is it that the police that has had to deal with repeated instances of MLAs and Ministers' children throwing their weight around are now averse to taking any action against criminals? Is Bengaluru becoming a city where women have to now worry about their safety and hooliganism?

My request to the Chief Minister, Siddaramaiah is this - Redeem yourself and your Government in this last year of your term. Take some time off from other 'interesting' projects like Akrama-Sakrama, Steel flyover and pay some heed to the call to make our women feel safer in our home city, Bengaluru.

14

Supreme Court Says NO To An Akrama Sakrama That Rewards Law Breakers And Greedy Builders

Deccan Chronicle

16th January 2017

Friday's stay by the Supreme Court on the Akrama Sakrama scheme is a major win and dawns the symbol of hope and triumph, appropriately so with the onset of this New Year. Someone on Twitter wrote to me: "@rajeev_mp your fight against Akrama Sakrama in the Supreme Court has support from law abiding citizens of Bengaluru". It is evident how citizens are standing in support of their city and have welcomed the Court's ruling.

Akrama Sakrama proves to be the synonym for the current political narrative of corruption in Karnataka. This collusion around public money and land lies at crux of corrupt politics in Bengaluru. In its current form, the message was: a lawbreaker stands to benefit than a law-abiding citizen!

The Government of Karnataka had passed The Karnataka Regularisation of Unauthorised Construction in Urban Areas Act, 1991 however, repeated use of such mechanism for regularising illegalities defeats the very purpose of master plans and planned urban development. It is criminal deviations by developers and contractors that have now become the order of the day in Bengaluru with utter disregard to prevailing laws of the land.

Instead of considering a reworked proposal that benefits the poor, the government has fed the canard that all illegal constructions are dwellings of the poor while in reality it is just a tool to legalise all illegalities of erring property developers and high income home owners.

Additionally, the following questions remain unanswered and warrant attention:

- 1) Why are home owners being penalised whereas builders and developers escape punishment?
- 2) What about criminal action against those in Government whose negligence or deliberate connivance allowed these deviations?
- 3) How is this regularization going to be audited?
- 4) Is the government sending a message that corruption and lawbreaking doesn't disadvantage anyone with a culture being created where lawbreaking is encouraged?
- 5) And then finally, why should citizens comply with laws when new amnesty schemes will be rolled out to protect violators and criminals?

Finally, the government's revenue generation justification for the scheme is a joke, especially when revenue leakages, inflated contracts and distribution of land to corrupt parties is common practice. In all seriousness the government should safeguard its resources by focussing on reforming contracting, use of public

assets and tax leakages, all of which has been reported by the Comptroller and Auditor General of India.

If the Government genuinely wants to help the poor, it must reconfigure Akrama Sakrama to create a criterion that benefits only the deserving. The legislation should also ensure punitive measures for violators – both builders and errant officials. Only by doing so, the unholy nexus of vested interests, builders and contractors can be eliminated.

It is time for Bengaluru to get united around the simple basic principle of democratic governance and it is the Government's duty to uphold the law and foster a culture of law abiding citizens. Akrama Sakrama must only benefit the poor and not builders and their politician friends who are exploiting our Bengaluru.

Brazen Corruption In Steel Flyover Project: No Political Leader Will Be Allowed To Wear Raincoat Of Innocence

Bangalore Mirror

14th February 2017

Recent reports have a Congress MLC, Congress Minister, Congress woman leader, Congress MLA and middle level bureaucrats linked to the top leadership of the Government in Karnataka all being nabbed with unexplained quantum of cash and Income. All playing stellar roles in the widespread loot of our city and State. But of most interest to Bangaloreans is the MLC in question and a diary seized from him that reportedly contains an entry saying “Received from Steelbridge – Rs. 65 Crores”.

Now that simple fact explains everything. The tearing hurry of the Chief Minister and his reinstated Bengaluru Minister and real estate tycoon KJ George to push through a monstrosity of a Project. A project that has blatantly inflated costs, no environmental impact assessment, a sham and scam of a public consultation, opposition

from thousands of Bengalureans, media outcry etc . Tens of thousands of Bengalureans have protested this project and misuse of public money. But all ignored and now we know why!

I was the first to say way back in June 2016 after writing to Chief Minister and the BDA Commissioner cautioning them about the non-transparent way they were pushing this project – that this was not a project for Bengaluru but rather a contractor-driven way of raising funds for elections. I have always maintained this as have many in Bengaluru and these revelations have proved us right. The steel flyover is nothing but a naked, brazen way of exploiting the city by a group of shameless politicians who tried to con the city and its people into believing that this was in their interest.

The reaction from the Government and Congress is in itself very revealing. The reaction at the charge of corruption was not a denial that the diary exists. Rather it was a silly, clumsy attempt to distract away from it by counter charging with some claim on BJP leaders with a CD. As if the charge of corruption and misuse of public money is something that's limited to a discussion between two political parties. It seems these leaders and their bureaucrats need reminding that the charge of corruption and misuse of public money is something that deeply interests the people of Bengaluru and Karnataka.

Corruption is not political Ping-Pong to be played between two sets of political leaders. It is a matter on which public servants are unambiguously accountable to the citizens and communities that they serve and are trustees of. That is why we have something called the Prevention of Corruption Act amongst our many laws – to keep Public servants honest and to jail those who aren't.

The conduct of this Government is very similar to the Cong led UPA Government who got booted out in 2014 because of their rampant out of control corruption. There too when faced with Corruption

scams like Commonwealth, 2G, Coal, ISRO etc various luminaries like Kalmadi, Sibal, Chidambaram etc came to distract and spin away from the scams, attack and scare away those exposing the scams including the then CAG. The famous zero loss theory of Kapil Sibal that I took apart was part of that effort. Here too there have been and will be all kinds attempts to distract away and even intimidate but they wont succeed.

This Diary in a criminal prosecution has far more evidentiary value because it was seized from an MLC and not some third party. This in itself makes it very different from Jain and Sahara cases. The Lok Ayukta and other investigative agencies must take suo-moto cognisance of this report of a diary. They must seek the details from the Income Tax department that possibly has custody of it. They must investigate the entire Steel Flyover Project and identify those that need to be prosecuted if diary contents confirm the media reports.

For this Government the end - as it was in the UPAs case too - is near. I would urge the Chief Minister that from now to Elections in 2018, all his Government departments disclose to public any or all contracts and commercial deals to avoid the temptation to use those to loot the state and its people. The bureaucrats and politicians of this Government that have for the last many years played the game of looting this city and state will get their comeuppance. Of that I have no doubt.

Just like scams like 2G, Coalgate and other beneficiaries including politicians are and have been prosecuted and examples from our adjoining state Tamil Nadu's Sasikala - here too Ministers, bureaucrats and Businesses will be held to account for the loot and misuse of public money and assets. In addition to the existing Prevention of Corruption act, there are a new set of laws that specifically cater to such kinds of corruption by those in Government and their crony businesses. I and many others

are determined to ensure that. There is no possibility of anyone – bureaucrat or political leader claiming innocence when such brazen corruption is underway. To borrow a quote - there is no possibility of anyone wearing a raincoat while taking a shower.

16

Smoke On The Water Fire In The Sky

NDTV Blog

18th February 2017

The latest incident of Bellandur Lake catching fire and billowing toxic fumes is yet another episode of the recurring nightmare stalking the citizens of the area and Bengaluru. Two years ago two separate incidents of fire, caused by industrial effluents in the water had caught the attention of even the BBC - All visible examples of Government's apathy to environment in General and to cities lakes in particular.

Bellandur Lake is the largest lake in Bengaluru and encompasses an area of over 891.9 acres and it is essential in preserving the storm water infrastructure and ecosystem of the extensive Koramangala & Challaghatta Valley areas. Unfortunately, this lake now holds the dubious reputation of being one of the most polluted lakes in the city.

The problem of pollution and encroachments of lakes like the one currently witnessed in Bengaluru is not new. Rampant urbanisation and densification in areas around lakes and storm water drains has not been accompanied by regulation and enforcement of laws and rules. Instead a culture of deliberate negligence has flourished.

Urbanisation and densification is part and parcel of a growing city like Bengaluru. However, city authorities like the Bangalore Water Supply and Sewerage Board (BWSSB), Bruhat Bengaluru Mahanagara Palike (BBMP) and Bangalore Development Authority (BDA) must be equipped to address this rapid and extensive growth and create services infrastructure - the lack of which means simply dumping industrial effluents and sewage into various lakes.

Sewage Treatment Plants (STPs) so necessary to treat raw sewage before discharge into the water bodies, are either underinvested in or unfunctional or overloaded.

The rampant culture of Apathy and corruption on the part of government agencies and elected representatives means public moneys are diverted away from these kinds of environmentally important projects. The overwhelming clamour about traffic by the city's so called VIPs means that while public money is made available for suspect projects like SteelFlyover, other projects struggle to find money. The lack of accountability of city agencies like Bengaluru water and sewage board (BWSSB) means no one is ever held to account for the widespread destruction of city's lake and ground water eco system. The irony of course is that on one hand, the government is presiding mutely over Bengaluru's network of Lakes and ground water which would be a natural source of drinking water and on other hand spends crores to pipe water from River Cauvery to meet cities drinking water needs.

After last uproar, the Bengaluru development Authority (BDA) was mandated to rejuvenate the lake. However, even with the

government sanctioning Rs 3.30 crore for fencing the lake, the BDA is yet to complete the task, due to which the land around the lake continues to be openly encroached. According to lake activists, only 2/3rd of the lake is fenced, while 918 metres has remained open. The CAG, in its 2015 report, has blamed the Lake Development Authority (LDA) for failing in its mandate to restore and conserve Bellandur Lake, despite the allocation of funds.

I have been at the forefront of the issue and have witnessed the crass violations of zoning regulations by government agencies and builders despite the area being declared ecologically sensitive. Ordinary citizens have repeatedly raised concerns and frustrations at the Government, including a Change.org petition by Sanchita Jha that gathered thousands of signatures and had my support.

In May 2015, I had raised this issue in Parliament and followed up with a detailed request to the Minister of Environment, Forests and Climate Change about the plight of lakes and storm-water drains in Bengaluru. Through this letter, I also requested the Ministry to investigate and check the status of the implementation of the National Green Tribunal (NGT) directions that includes buffer zones around water bodies and raja-kaluves (storm-water drains). Strict implementation of the NGT's directions would ensure that city can be city of gardens and lakes and its citizens live without fear of a destroyed environment. The implications of leaving this unaddressed has serious implications on not just environment but also public health at large.

Responding to public outcry, in October 2016, the State Government appointed an expert committee to assess and make recommendations that will ensure the rejuvenation of the lake. The appointment of the Committee had raised hopes amongst the citizens that there would be change but the recent fire may cause such hopes to go up in smoke. The Expert Committee has submitted its report to the government. The Govt has to wake up

from its slumber and negligence and start the process of moving ahead on the recommendations after due public consultation.

The current state of Bellandur Lake in many ways represents the rampant abuse and negligence of our city that describes city's disfunctional Governance. Turning a proud, beautiful city with a long history and heritage slowly into an unliveable urban chaos and burdening millions of hardworking citizens and their families with living challenges.

The State Govt is on its last lap with a few months to go before elections and sadly I do not expect a government that has not acted in last 4 years to do so now. But Bengaluru deserves better!