

# **Democracy and Decentralization**

*by*

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## Democracy and Decentralization

*Dr Jayaprakash Narayan<sup>1</sup> and P Sanjay<sup>2</sup>*

A large-sized district in India is larger than about eighty (80) nation-states in the world in terms of population. Most of our larger states would be among the large nations of the world. Uttar Pradesh, Bihar, Maharashtra and West Bengal - each would be the largest nation in Europe if independent. Even a truncated Uttar Pradesh would be the world's sixth largest nation! Given these mind-boggling demographic realities, coupled with unmatched diversity, our centralized, somewhat imperial style of governance is archaic and ineffective.

An incident during British Raj some 80 years ago illustrates the absurdity of over-centralization in a democratic polity in the 21st century. Chittaranjan Das (CR Das), the great Bengali patriot, was elected as Mayor of the newly constituted Calcutta municipal corporation in 1924. Das argued with the then British authorities that as the head of the elected local government he should have the right to appoint the chief executive officer (commissioner) of the city government. The British offered him the services of any ICS officer he chose. Das declined and won the right to appoint his own official. He then picked a bright young 27 year old as the commissioner. He was none other than Subhash Chandra Bose!

The story did not end there. Bose did an outstanding job as the city administrator and gained wide recognition in a few months. Several months later, he was arrested as a suspected terrorist and detained in Alipore Jail. CR Das again insisted that Bose did a great job, the charges against him were unrelated to his work as the city official, and the elected local government could not be denied his services. Amazingly, the colonial government relented, and directed that Bose should continue as the commissioner even while in custody! Files were sent to him in jail, and his orders were carried out. This extraordinary practice continued until Bose was exiled to Mandalay in Burma. Bose went on to become Mayor of Calcutta in 1930, and later Congress President in 1938 and 1939.

Today the elected local government of even a 'B' grade municipality enjoys no such autonomy, let alone the great metropolis like Kolkata or Mumbai. One of the paradoxes of democratic India is that our governance is far more centralized than in colonial India or communist China.

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## **Distortions of Centralization**

This centralized exercise of power led to several inevitable political consequences. At the macro level when we examine a whole state or the country, the electoral verdicts do broadly reflect public opinion. More often than not this verdict is a reflection of the people's anger and frustration and is manifested in the rejection vote, or their support to a leader, promise or platform. However, at the local level, caste or sub-caste, crime, money and muscle power have become the determinants of political power. All parties are compelled to put up candidates who can muster these resources in abundance in order to have a realistic chance of success. While political waves are perceived around the time of election or afterwards, at the time of nomination of candidates all parties are uncertain about their success and would naturally try to maximize their chances of success at the polls by choosing those candidates who can somehow manipulate or coerce the voters. As a net result, irrespective of which party wins, the nature of political leadership and quality remain largely the same, and the people end up being losers. This is then followed by another rejection vote in the next election and the vicious cycle keeps repeating. Where the candidate cannot muster money or muscle power, he stands little chance of getting elected irrespective of his party's electoral fortunes. Increasingly in several pockets of the country, people are spared even the bother of having to go to the polling station. Organized booth-capturing and rigging are ensuring victory without people's involvement.

There is much that is wrong with our elections. Flawed electoral rolls have become a menace. About 40% errors are noticed in electoral rolls in many urban areas, and bogus voting in towns exceeds 20%, making our elections a mockery. Purchase of votes through money and liquor, preventing poorer sections from voting, large scale impersonation and bogus voting, purchase of agents of opponents, threatening and forcing agents and polling personnel to allow false voting, booth-capturing and large scale rigging, bribing polling staff and police personnel to get favours and to harass opponents, use of violence and criminal gangs, stealing ballot boxes or tampering with the ballot papers, inducing or forcing voters to reveal their voting preferences through various techniques including 'cycling' etc, illegally entering the polling stations and controlling polling process — all these are an integral part of our electoral landscape. No wonder the Election Commission estimate that more than 700 of the 4072 legislators in States have some criminal record against them!

Many scholars wonder how despite massive irregularities the electoral verdicts still seem to largely reflect public opinion, and how parties in power often lose elections. The answers are simple. Happily for us, though parties in power are prone to abusing authority for electoral gains, there has never been any serious state-sponsored rigging in most of India. The irregularities are largely limited to the polling process alone, and most of the pre-polling activities including printing and distribution of ballot papers, and post-polling activities including transport and storage of ballot boxes and counting of ballots are free from any political interference or organized manipulation. That is why parties in power have no decisive advantage in manipulating the polls, and electoral verdicts broadly reflect shifts in public opinion. However, the massive irregularities in polling process make sure that candidates who deploy abnormal

money and muscle power have a distinct advantage. Sensing this, most major parties have come to nominate 'winnable' candidates without reference to their ability and integrity. Thus, the use of money power and muscle power are sanctioned by almost all the parties, and often they tend to neutralize each other. The net result is that candidates who do not indulge in any irregularity have very little chance of being elected. Election expenditure - mostly for illegitimate vote buying, hiring of hoodlums and bribing officials - is often ten or twenty times the ceiling permitted by law. Criminals have a decisive or dominant influence on the outcome in many parts of India, and have often become party candidates and won on a large scale.

### **Why do People Take Money to Vote?**

In a large and complex country like India, it is impossible for the national or State legislatures to fairly or effectively represent the people and all shades of public opinion. Given the largeness of constituencies and complexity of elections, there will always be a tendency to abuse public office or resort to vote buying. Even with the best will, and the most comprehensive electoral reforms, in a poor country many voters are often swayed by the inducement of money and liquor. The most credible citizens are discouraged from contesting as long as voters expect money to exercise their franchise. In order to address this question we should first understand why the citizens are selling their vote for money.

This habit of taking money to vote is actually a rational response to an irrational situation. It is often tempting to blame the illiterate and poor citizens for this plight of our democracy. But in reality it is the democratic vigour and enthusiastic participation of the countless poor and illiterate voters, which has sustained our democracy so far. However, most people have realized with experience that the outcome of elections is of little consequence to their lives in the long run. As a net result of several distortions, elections have lost their real meaning as far as the people are concerned. If, by a miracle, all winners in an election lose, and all their immediate rivals are elected instead, there will still be no real improvement in the quality of governance. This remarkable inertia and the seeming intractability of the governance process have convinced citizens that there is no real long-term stake involved in electoral politics. Therefore many poor citizens are forced to take a rational decision to maximise their short-term gains. As a result the vote has become a purchasable commodity for money or liquor. More often it is a sign of assertion of primordial loyalties of caste, religion, group, ethnicity, region or language. Very often without even any material inducement or emotional outburst based on prejudices, the sheer anger against the dysfunctional governance process makes most voters reject the status quo. Often this rejection of the government of the day is indiscriminate and there is no rational evaluation of the alternatives offered. In short, even the illiterate, ordinary voter is making a rational assumption that the vote has no serious long-term consequences and the choice is between Tweedledom and Tweedledee. Therefore he is attempting to maximise his short-term material or emotional gain!

## Link Between Vote and Public Good

This situation can be corrected only when the citizen appreciates the link between his vote and public good. Amartya Sen and Jean Dreze pointed out that the centralized state institutions are unable to meet the basic requirements of the poor people, therefore there is not only a need to

### Decentralization lowers the cost of raising the income of poor people in South Africa



decentralize the administrative apparatus but also empower the local people by strengthening local governments. If the local elected representative has no alibis for non-performance, then vote acquires a new meaning. If the school, road, drain, water supply, traffic regulation, land records, health centre and a myriad other public services are the direct responsibility of the elected government at the local level, then people see that whom they elect has a tremendous bearing on what happens after the elections. Such a situation is possible when the local governments – Panchayats or Municipalities – are truly empowered, and authority is exercised as close to the citizen as possible in an accountable and transparent manner.

Source: *World Development Report, Attacking Poverty, 2000-2001*.

When there is a clear link between their vote and public good, and when tax monies are directly transferred to the public services, then people start using vote as an effective tool to make fine political judgements and elect suitable representatives. There will be greater participation of the people in the decentralized form of governance resulting in empowerment of the poor, as there is easy availability of local information. The availability of local information with the administration also results in better implementation of development policies. For instance in Bolivia decentralization gave communities more power to influence their local governments that the composition of local public expenditure shifted in favor of the poor.<sup>3</sup> This direct and positive relationship between decentralization and economic outcomes is not specific to Bolivia alone.

<sup>3</sup> World Bank, "Entering the 21<sup>st</sup> Century: World Development Report, 1999-2000," (New York: Oxford University Press, 2000), pp-107-124.

For instance, many of us admire China's rapid economic growth in recent years. But, we often ignore the fact that the employment and exports in China are powered by the millions of town and village enterprises (TVEs) with the support and active participation of local governments. One of the ironies of contemporary history is that the authoritarian and communist China is far more decentralized than liberal democratic India!

The 73<sup>rd</sup> and 74<sup>th</sup> Amendments to the Constitution merely created local governments. It is now mandatory to create panchayats and municipalities, to hold regular elections, to have a State Election Commission and State Finance Commission. However, in the absence of constitutionally mandated entrustment of responsibilities, local governments are at the mercy of the State legislatures. The State governments are often wary of parting with powers and functions. The Eleventh and Twelfth Schedules of the Constitution are merely recommendatory and many State Laws have violated the spirit of the Constitution. These provisions do not have the force of the Seventh Schedule, which clearly demarcates the functional jurisdiction of the Union and States. It is therefore necessary to clearly demarcate the functions of local governments constitutionally on par with the Seventh Schedule, and to ensure that the required resources and control of public servants are entrusted to the local governments. Only then can representative government be truly democratic, accountable and effective.

### State Legislators v Local Governments

Another important and unhappy consequence of a parliamentary executive and unaccountable executive power in the hands of State legislators is severe weakening of local governments. A local legislator whose sole preoccupation is local political patronage often sees the elected local government as a serious rival encroaching into his territory. As local governments have been at the mercy of State legislatures until 1993, in most States local governments either did not exist, or when constituted, they tended to be feeble and ineffective. The States rarely showed any degree of commitment to transfer

*Model for functional delineation among three tiers of local government in education sector- Andhra Pradesh.*

#### **Gram Panchayat**

Location of school and construction of school should be the function of village level Panchayats through the Gram Sabha.

Nutrition programmes, should be entirely managed by the village level Panchayats with the help of Gram Sabha.

The Gram Panchayat should select suitable candidates for Girls Hostel.

#### **Mandal Parishad**

Primary education will be transferred to Mandal Parishads.

As regards vocationalisation of Education, Mandal Parishads should identify location of work sheds for vocational education.

Mandal Parishad will decide upon the location of Girls Hostel.

#### **Zilla Parishad**

Provision of teaching and training material should be the function of Zilla Parishads for which they should identify and promote resource centers.

In nutritional programmes Zilla Parishad should arrange for linkages in respect of supply of food grains and its transportation.

For Secondary Education regarding Educational Technology and Computer Literacy, Zilla Parishad should arrange for the supply of hardware and its maintenance. Zilla Parishad should arrange training of teachers in consultation with Directorate of Education and SCERT.

For Secondary Education regarding Educational Technology and Computer Literacy, the Zilla Parishads should do the selection of teachers.

As regards vocationalisation of Education, Zilla Parishad should carry out the survey with help of District Education Officers.

Appointment and training of special teachers for disabled education should be done by the Zilla Parishad.

resources, functions and control over functionaries to local governments. As the State's political executive owes its survival entirely to elected legislators' good will and support, it is but natural that local governments would not be allowed to take roots against the will of the legislators whose dominance is threatened by empowered local governance. This situation underwent marginal change after 1993, with the advent of the 73rd and 74th Constitutional amendments. However, given the reluctance of the States, these amendments did not result in truly empowered and effective local governments. The Constitution now only ensures that local governments are constituted, elections are held regularly, panchayats and municipalities are not superceded en masse, and independent constitutional bodies are appointed to monitor elections and advise on financial devolution. However, the Eleventh and Twelfth Schedules of the Constitution have no mandatory force and the State legislatures are free to transfer such subjects and powers as they deem fit to local governments. Given the political realities of legislators' unaccountable and disguised executive powers, most States chose not to empower local governments effectively. Even the constitutional obligations of constituting local governments and holding regular and periodic elections are violated with impunity, by employing a variety of disingenuous and undemocratic devices and stratagems.

### **Local Governments in Andhra Pradesh – A Case Study**

A close look at the functioning of local governments in Andhra Pradesh will demonstrate the reluctance of state government to empower the local governments effectively. For instance, even the National Commission to Review the Working of the Constitution (NCRWC) has in a consultation paper commented:<sup>1</sup>

“In Andhra Pradesh...the Gram Panchayat and Mandal Parishad’s are not required to plan for economic development and social justice. All tiers of Panchayat have been assigned with large number of functions. But none of them has financial or administrative resources under their control to execute them. The Mandal Parishad has no control over the staff of Development blocks, and the Zilla Parishad has no control over the DRDA which controls huge funds over various poverty alleviation programmes.”

It is not correct to say that a large number of functions have been given to the local governments in Andhra Pradesh. As per the 11<sup>th</sup> schedule, 29 subjects can be devolved to the local governments, but the Government of Andhra Pradesh (GOAP) has devolved only 17 subjects and that too without transferring either the funds or functionaries along with the functions. Only advisory and review powers have been transferred. For instance, in the education sector, the GOAP transferred only adult and non-formal education and libraries, but not primary and secondary education. Due to incomplete devolution of powers, the role of local governments has been limited at best to beneficiary selection. District Planning Committees (DPCs) have not been constituted in spite of a clear constitutional mandate to do so. The DPC should prepare a district-level development plan and forward it to the State Government.

Apart from the reluctance to transfer subjects enumerated in the Eleventh Schedule of the Constitution, even in the limited transfer of functions that the GOAP has attempted, it did not transfer either the accompanying functionaries or finances to local governments. The authority of the local governments on the functionaries of various departments carrying out rural development functions is very limited. Elected representatives of local governments cannot take any disciplinary action against any gazetted officer. Representatives of local governments can at the most question the officials in the meetings or request the higher authorities to take appropriate action. Further, even the powers that were given to local governments over some of the functionaries have been withdrawn. For instance, through Government Order (GO no. 358) in 2000, the GOAP vested all powers with regard to teaching and non-teaching staff of schools with the District Education Officer (DEO) removing them from the hands of CEO of Zilla Parishads.

The fiscal devolution to local governments has also been very minimal. While Gram Panchayat has taxation powers, Mandal Parishad and Zilla Parishad tend to depend on the transfers and grants from the state government. In case of Gram Panchayat, the financial resources generated locally are not sufficient to meet its expenses. More often than not, the Gram Panchayats do not have the necessary staff to collect various taxes, propelling them into a vicious circle of fiscal insolvency. The Gram Panchayats do not have resources to employ staff to collect taxes, and inability to employ the staff further exacerbates the financial crunch as the taxes that are levied cannot be collected efficiently. The state government's financial transfers to local governments has been negligible.

The GOAP claims that almost 10.5 percent of its rural expenditure has been done through local governments. However, a closer examination of facts reveal that a mere 5.3 percent of its financial resources have been spent through local governments and the remaining 4.7 percent was from the own financial resources of local governments. There is also absence of accurate fiscal data on the financial devolution to local governments as the World Bank observed in its report: "GOAP figures on the amount transferred to the local governments as "planned" are misleading as Janmabhoomi<sup>ii</sup> amount is shown as released to the local governments; in reality, it is released directly to the collector, who then releases it to the Nodal Officer<sup>iii</sup>." It is estimated that almost 80 percent of the meager financial resources of the local governments is spent on wage bills. As the State government has been complaining, this may be true of the governments own current expenditure. However, in their case, the privilege of employment and powers of supervision and control go with the bill. In the case of local government only the bill bears their name while the power remains with the state government. However, since these are now shown as local government activities, the onus on non-performance falls on them. In the absence of clear functional devolution and control over functionaries, and lack of access to resources the local governments are unable to function in any meaningful manner. The weak local governments and centralization of political power actually dis-empowers state and Union governments, as their policy options will become constrained. This is most evident in the fiscal policies of state and Union government.



## **Fiscal Responsibility and Local Governance**

It is now common knowledge that India is in the grip of a severe fiscal crisis. The combined fiscal deficit of the Union and State governments is of the order of about 10% of the GDP. As borrowings are diverted to meet the revenue deficits, and as interest burden on the exchequer keeps increasing, the crisis is deepening. While the economic dimensions of the crisis are well understood, it is often not recognized that this is largely a governance crisis. Fiscal deficits can only be addressed by significant increase in revenues or reduction in costs. Revenues can be raised painlessly only by very high, sustained growth rates. As our infrastructure is weak and inadequate, and as the productive potential of the bulk of the population is shackled on account of low levels of literacy and poor health care, there cannot be rapid growth on sustained basis. To overcome these obstacles we need both resources and governance reform to effectively implement policies. The more painful way of increasing revenues is higher taxation. As much of the tax revenue and public expenditure do not result in realizable public goods and services, citizens resist and evade high taxation. With rampant corruption in a centralized governance structure, there cannot be tax compliance in high-tax regime, nor is high taxation politically feasible in a liberal democracy without tangible improvement in public services and community assets. Another way of raising resources is privatizing public undertakings, but our record and the difficulties encountered indicate that it is unlikely that significant revenues can be raised from public sector sales.

There are two ways of reducing public expenditure – reduction of wage bill and elimination of subsidies. Savings through wage reduction or retrenchment of employees are very hard to accomplish. In a centralized governance structure, no government has the power or will to antagonise the vast army of employees. In any case, the problems with public employment are not the excessive number of workers and high wages, but the wrong deployment and lack of accountability. We have too many support staff and too few teachers and health workers, and where public employment is in the right sectors, there is hardly any effective delivery of services. Subsidies cannot be eliminated unless the beneficiaries are satisfied that the money so saved is improving the quality of their lives in some other manner. In centralized structures where such a link is not visible, desubsidization is difficult. All these factors make our fiscal crisis a highly intractable problem in our centralized governance model.

This fiscal crisis can be addressed only through effective and far-reaching decentralization of power and citizen-centered governance. People would elect better representatives and attach value to the vote in a mature and responsible way when their vote is directly and locally linked to public good. We accept tax burden voluntarily only when we see the link between the taxes we pay and the public services we receive locally. Finally, the vast army of employees can be redeployed from areas where they are redundant to sectors where they are needed only in local governance. Once employees are available in the needed sectors and institutions, they perform satisfactorily only when they are accountable to the local people, and when authority and accountability are together.

## **Citizen Empowerment**

All this clearly establishes the need for effective local representation and empowered local governments. We should recognize that all politics is ultimately local, and the citizen is the centre of our political universe. In our democracy the spirit of the Constitution envisages that true sovereignty vests in the citizens. Therefore citizen-centered governance based on the principle of subsidiarity should be the norm. The fundamental failure of our representation and governance so far has been because of the high degree of centralization delinking the citizen from governance. In a rational and democratic model of representative democracy, it should be recognised that the citizen and his family occupy centre-stage. Most decisions that affect the happiness and well being of individuals are taken by the citizens and their families. The state comes into picture only when the citizens' actions have a bearing on others' lives, or when common goods and services need to be provided for economies of scale or to harmonize relations between individuals and groups. The first focus of governance in such matters should be the local community of stakeholders who have a common interest in a service or institution. For instance, the parents of children who attend the same school, the farmers whose lands are irrigated by the same source, the consumers who obtain essential commodities from a ration shop, or the producers who sell their product in a market constitute such stakeholders' groups. To the extent feasible, the responsibility for organizing and managing these services should be entrusted to these and other stakeholders' groups.

## **The Road Ahead**

Many public goods and services do not have clearly defined stake-holders. The people at large would need such services from time-to-time. Therefore, such tasks should be entrusted to the local governments. Such local governments should have adequate functions entrusted to them, and commensurate resources should be devolved on them. All the public servants dealing with those functions should be clearly and fully accountable to such local governments. In order to empower the local governments, a few important steps have to be taken:

- Article 243 G and W need to be amended to give explicit authority to local governments. 11<sup>th</sup> and 12<sup>th</sup> schedules of the Constitution should have the same effect as the 7<sup>th</sup> Schedule - distributing powers between the Union and States.
- We need to create a single district government for rural and urban areas at the third tier of Panchayats. A district is larger than about 80 nations in the world. The idea of a district Panchayat only for rural areas is outdated.
- All the functions, funds and functionaries pertaining to the subjects enumerated in the Eleventh and Twelfth Schedules should be transferred to local governments with immediate effect. Functional delineation among the three tiers of local governments should mark any such devolution. The process of devolution should be based on the Principle of Subsidiarity i.e., what can be handled at the local level should be done at that level, and only those that cannot be done locally should be passed on to a higher level i.e., from the Gram Panchayat to the Mandal Parishad and Zilla Parishad.

- Financial Devolution
  - The state budget under each head should be divided into: 1. State wise, 2. District-wise
  - Allocating 50 % of the total state government plan budget to the local governments
  - Savings under non-recurring (capital) items shall not be diverted by local governments for recurring expenditure.
  - Savings on recurring expenditure can and should be diverted to non-recurring expenditure. This encourages fiscal prudence and savings.
  - The Zilla Parishad should have the powers for re-appropriating amounts from one item to another within the budgetary allocations for the district, subject to the conditions that savings under non-recurring or capital items shall not be diverted by local governments for recurring expenditure
  
- The functionaries at and below the district level pertaining to all the 29 subjects should work under the control of the local governments. And the officials transferred to the control of Zilla Parishad are to be treated as on deputation. The present service rules governing the functionaries will not be amended. The salaries of the functionaries transferred will be given to local governments as a lump sum grant.
  - The local government will have the power to relocate or re-deploy the functionaries under its control subject to relevant rules on the subject.
  - Once the cadre of the local governments is in place, the state government should constitute a Staff Review Commission to identify the departments and agencies that no longer require recruitment of new officials in each district.
  - Ultimately, the local governments should have their own cadre, consisting of both technical and non-technical officials. The recruiting authority for such cadre can be the Public Service Commission but the appointing authority will be the local government.
  
- Just as the Union and state governments have accountability mechanisms, similarly the local governments should also have effective accountability mechanisms. The following measures can be considered for enhancing the accountability in the local governments.
  - Ombudsmen: There should be independent Ombudsmen to look into all complaints or grievances related to local governments for every district. The Ombudsman shall have the power to take any action, initiate disciplinary proceedings against any local government representative/employee including removal or dismissal. The government shall have no appeal powers. The appeal will lie with a body of State-Level Ombudsmen. The Ombudsman shall be a person of integrity and reputation in the district, and a committee comprising of the chief minister, chief justice of the high court and leader of the opposition will appoint him.

- Right to Information – the state should create effective mechanisms for implementation of the right to information legislation and make them applicable to all branches of state government and local governments. A provision for independent appeal and compensation to the citizen along with penalties for erring employee should be provided.
- Citizen’s Charters – There is a need to proactively implement the local government citizen charters. The Citizen Charter should clearly outline citizen’s entitlements, time frame, and compensation for non-delivery and penalties for the erring employee.
- A District Audit Unit, independent of local and state governments can be constituted to scrutinize the expenditure of local governments, and it should function like the Accountant General’s audit

Implementation of the above suggested measures will substantially improve the functioning of local governments in delivery of basic services. This is not to say that the state and Union governments will not have any role in the subjects, which have been devolved to local governments. For instance, in education sector the state and Union governments will still have substantial role in defining school curriculum, evaluation procedures, training for teachers and establishing training institutes. Similarly, even in other devolved subjects the state government will continue to have an important role to play. For instance, in agricultural sector, all the research activities will be carried out by the state and central governments.

Good governance in a democratic society is not possible in centralized structures. Our representative democracy needs to be reorganized facilitating the growth and empowerment of local governments and stakeholders. The insipid uniformity and stultifying central control are inimical to democracy, economic prosperity, release of human potential, social justice and good governance. This restructuring demands giving mandatory status to the Eleventh and Twelfth Schedules of the Constitution on par with the Seventh Schedule. We should also evolve mechanisms for devolution of sufficient resources and effective control of employees at each level commensurate with their functions.

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<sup>i</sup> National Commission to Review the Working of the Constitution, “Review of the Working of the Constitutional Provisions for Decentralisation (Panchayats),” available at <http://lawmin.nic.in/ncrwc/finalreport/v2b2-6.htm> .

<sup>ii</sup> Janmabhoomi programme has been suspended recently.

<sup>iii</sup> World Bank 2000, “Overview Of Rural Decentralization In India, Volume II,” available at <http://www1.worldbank.org/wbiep/decentralization/saslib/Volume%20II%20Rural%20decentralization%20in%20India.pdf>