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## Decoding Rural Governance in India

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### Abstract

This paper is based on an interview with Dr Vikas Jha, Director, Governance & Policy Advocacy, Sehgal Foundation as part of Academic Interface series. Dr Jha obtained his diploma in policy studies from University of London and master's as well as doctoral degrees from Jawaharlal Nehru University, New Delhi. He has been involved in developmental outreach and activism on a range of issue such as citizen participation, community engagement, capacity building and accountability of grassroots leaders. In this interview, Dr Jha shares his candid views on governance-related issues at the village level, how Panchayati Raj Institutions are tackling those issues, strategies for improving rural governance and augmenting community participation in resolving local problems.

**Keywords:** Panchayati Raj Institutions, Rural Governance, Grassroots, India

### **What are the major governance-related issues at the village level in India that needs immediate attention of the local communities?**

At the outset, it is important to explain the meaning of governance. Governance implies those institutions and processes through which government, civil society organizations and private sector interact in shaping public affairs and through which citizens articulate their interests, mediate their differences and exercise their political, social and economic rights<sup>1</sup>. To understand major governance related issues at village level, we should know how it can be measured. Governance at the village level can be measured against the benchmarks such as delivery of basic services, transparency in functioning of Gram Panchayat and local government department, level of corruption and opportunities for citizens to participate principally to ensure accountability<sup>2</sup>.

Measured against these benchmarks, one can find that villagers have poor access to public distribution system, Indira Awas Yojana, Swachh Bharat Mission and Mahatma Gandhi National Employment Guarantee Act. Such problems are there in several government programmes. Villagers have to pay bribes to get benefits under the government programmes. Corruption hits people especially the poor in a big way in villages. Opportunities for citizen participation such as Gram Sabha, social audits and community monitoring are mostly absent in most parts of India. So participation of citizens has been limited to elections and different avenues of participation after elections are largely dormant in rural landscape.

Local bodies such as Gram Panchayats do not have enough funds, functions and functionaries except in four–five states of India, so people regard it as symbolic institution, a 'vehicle without engines'. Hence they do not take much interest in its functioning which is cause of serious concern in democracy.

Greater participation of citizens in local affairs might strengthen their belief in democratic processes and inculcates a culture of solving issues democratically. However, motivating rural folks to participate in deliberations of local bodies or collectively influence decision-making is a bit challenging due to traditional marginalization and presence of strong power brokers.

**Are the Panchayati Raj Institutions (PRIs) able to tackle the key issues at the grassroots levels effectively?**

Within the context of limited administrative and fiscal decentralisation in India, PRIs have to meet huge expectation of people. PRIs have been able to take up issues of villagers to line government departments and they have been able to make substantial contribution in improving the village infrastructure.

PRIs have very crucial role in monitoring of government programmes such as Public Distribution System, Mid-Day Meal, Integrated Child Development Services and schools. Any complaint by PRIs on poor functioning of the government departments is taken very seriously by district administration. In MGNREGA and Swachh Bharat Mission, PRIs have very important role in monitoring and implementation.

PRIs are bridge between citizens and government which helps in channelizing demands of citizens to government and government message to citizens. PRIs through its platform such as Gram Sabha offer opportunities to citizens to participate in governance regularly. Otherwise, citizens participate just once in five years for electing government at local, state and national level –making India an electoral democracy lacking features of citizen participation.

I would say that within the administrative, fiscal and capacity constraints, PRIs have worked quite well.

**What are the reasons behind apparent failure of Panchayati Raj Institutions in living up to the expectations of its primary constituency?**

PRIs have not failed in India but they seem to be failing or underperforming due to various reasons. The primary reason for outward failure of decentralized units such Panchayati Raj Institutions (elected local bodies) is design failure except in some states of India. It means inconsistent design of political, administrative and fiscal decentralisation. I feel that decentralization in India has been designed to fail as administrative and fiscal powers have deliberately not been given by state government as they fear losing power to elected local bodies.

The 73<sup>rd</sup> and 74<sup>th</sup> constitutional amendment envisages devolution of 29 subjects to village councils and 18 subjects to municipalities respectively. However in practice, they have not been transferred to local bodies in most of the states in the country. The World Bank study also points out that although the constitution has recognised the local village councils but states are unwilling to allocate sufficient fiscal and administrative functions as state level political leaders fear losing power<sup>3</sup>. Further, states reserve the right to withdraw functions from the local village councils by executive decisions and dismiss local functionaries<sup>4</sup>.

In view of non-transfer of power, local bodies do not have capacity to deliver and they fail to meet expectations of people. Simultaneously, it must be pointed out that decentralisation across the world faces unrealistic expectations and overambitious goals. Pranab Bardhan, renowned political scientist says “decentralisation has undoubted merits and strengths; however, idea of decentralisation may need some protection against its own enthusiasts”<sup>5</sup>. Ironically, expectations of rural folks are fueled by

national level leaders talking about Gram Panchayats as an institution which will be panacea of governance-related problems in the villages across the country whereas on the ground, PRIs are not well-placed to deliver due to lack of real powers which the states are reluctant to let go.

**Is the scenario identical across the country or there are some better examples in some of the states?**

PRIs in some states are doing very well in terms of devolution of funds, functions and functionaries (3Fs), infrastructure, governance and transparency. The annual study 2015-16, the Panchayat Devolution Index (PDI), the Ministry of Panchayati Raj, Government of India and TISS, Mumbai ranked Kerala, Tamil Nadu, Maharashtra and Karnataka as first four states in India while, Jammu and Kashmir, Uttar Pradesh, Punjab and Jharkhand are the low performers.

The study looked at two different indices for all the levels: Index of Devolution in Policy (DPo) and Index of Devolution in Practice (DPr) in addition to 3Fs and IGT (Infrastructure, Governance & Transparency).

The success of Kerala in decentralization is not new. At the same time, it is important to find out why Kerala has been so successful. Its success can be attributed to transfer of 3Fs to local government from 9<sup>th</sup> Plan. It has transferred 117 functions to Gram Panchayats and 151 functions to municipalities. All offices and staff at the appropriate level have also been transferred to the respective Local Governments. The local bodies have been given ample powers to control their staff including the Heads of Offices. The Mayor/Chairpersons/Presidents act as the Executive Authorities under the Acts<sup>6</sup>.

Kerala also has robust participative planning process in which Gram Sabhas and Ward Sabhas prepare and approve the plan. It has also powers of selection of beneficiaries to various welfare schemes, social audit and budget approval<sup>7</sup>. As a result, in Kerala today, Gram Panchayat has its own income of nearly rupees one crore and a Municipality with 3-5 crores and corporations with 5-20 crores, besides the State Governments Plan grant, Maintenance grant and General purpose Grants amounting another rupees 1-2 crores to Gram Panchayats. Besides, Central government grants like Mahatma Gandhi NREGS, Swachh Bharat, also come directly to them. It gives enough resources to local bodies to plan and spend on their priorities and they are no longer dependent on line government departments for projects<sup>8</sup>.

**What could be the possible strategies for improving the functioning of Panchayati Raj Institutions so that they turn into model of effective rural governance?**

The first step should be to address the design flaws in decentralisation in India. We should learn from Falleti's theory of decentralization who maintains that right kind of sequencing i.e. administrative decentralisation, fiscal decentralisation and political decentralisation (AFP) as per the context may influence success or failure of decentralisation and power relations between local and central government may determine sequence in a particular context<sup>9</sup>. In context, where central government is dominant, decentralisation starts with administrative followed by fiscal and political. Domination of local government would mean political decentralisation followed by fiscal and administration. However, decentralisation in West Bengal and Kerala (Indian states) has given good results with focus on all three dimensions of AFP at the same time. In most states, only political decentralisation has taken place with very few changes in administrative and fiscal decentralisation. Falleti also points out that decentralisation is along drawn process with various successful reforms rounds. Each dimension of decentralisation is enacted in specific rounds taking place at different points of time. Hence next round of reforms in decentralisation in India must happen in administrative and fiscal spheres.

After design issue, next important aspect is political commitment of leaders. While national leaders are inclined to giving powers to local bodies, state leaders are quite reluctant. We have seen tussle for

power in decentralisation politics for nearly 24 years now and leaders of local bodies have lost in this power tussle. All elected representatives in local bodies should launch non-violent struggle 'panchayat stayagraha' for administrative and fiscal decentralisation in India, otherwise existing decentralisation scenario may not change in the country for next decade.

The issue of capacity building and creating a resource centre in each block for supporting local bodies administratively and technically should follow if struggle mentioned above is successful. Community empowerment is the most important issue but most neglected by policy makers in the discussion on PRIs. We have hardly seen initiatives for making communities aware at grass roots level in India, exception being Swachh Bharat Mission where mass awareness drives has been taken by government and panchayats. Government assumes that communities will become aware on their own. Without community empowerment, PRIs will not perform effectively. As Falleti says, reforms in decentralisation is continuous process, so all the issues mentioned above should be given serious thought if PRIs are to be turned into model of effective rural governance.

### **How participation of local communities can be augmented in Panchayati Raj Institutions?**

Participation of local communities can be augmented in Panchayati Raj Institutions by activating various mechanisms of participation such Gram Sabha, Committees of Gram Panchayats and various monitoring committees formed in Gram Sabha. At present, the participation happens only on paper.

One of the ways to activate Gram Sabhas was witnessed during *Gram Uday se Bharat Uday Abhiyaan* in April 2016. It was launched by Prime Minister Narendra Modi to generate nationwide efforts to increase social harmony across villages, strengthen panchayati raj and promote rural development. The central and state governments reached out in mass media, including newspapers, television, and radio, urging citizens to participate in Gram Sabha in large numbers. In Haryana, the state government asked the district administration to prepare a schedule of gram sabha meetings and allocated responsibility to government officers across departments to be present in the meetings. Finally, and key to success, the people felt the seriousness of the state government in facilitating gram sabhas, hence they participated in large numbers<sup>10</sup>.

Presence of people in meeting of various institutions is first stage of participation, the second stage is citizens' ability to voice their opinions and concerns and last stage how they influence decision making of the institution. Last two stages can only happen if community is empowered.

It is important to explain the meaning of community empowerment here. Community empowerment means "how members of a group are able to act collectively in ways that enhance their influence or control over decisions that affect their interests"<sup>11</sup>. However capacity of communities to act and influence decisions depend on four elements<sup>12</sup>:

1. Access to information: availability of laws and procedures for accessing information. It enables communities to hold government departments accountable and fight corruption
2. Mechanisms for inclusion and participation: legally mandated institutions e.g. reservation for women in local bodies, social audit in MGNREGA and spaces of grass roots movement e.g. movement of tribal against land acquisition. Communities can use these spaces for raising voice without any threat
3. Accountability: communities hold government department accountable by forming watchdog groups and budget analysis
4. Local organizational capacity: capacity and resources of communities to organize and voice their interests e.g. neighbourhood groups, farmers group, tribal group

The presence of these four elements in any socio-political context empowers the communities and they participate effectively in functioning of public institutions. Provision and strengthening of the four elements in rural India will not only augment participation of communities in PRIs but also make these institutional accountable. Hence it is often said that community empowerment is the foundation of grass roots democracy.

Sehgal Foundation, an NGO based in Gurgaon, has used Brinkerhoff and Azfar's theory to design a community empowerment program named "Good Governance Now" in Nuh district, one of least developed district in Haryana. In the program, select community leaders are trained on key provisions of government programs, right to access information, developing village level group to raise voice and approaching government departments with demands. Good Governance Now coupled with strengthening village institution has been built into Good Rural Governance Model which is being implemented in 435 villages of India by Sehgal Foundation. This model has yielded very good results e.g. improving delivery of public services, building capacity of panchayats and village infrastructure.

**What about marginalized sections like women, minorities, transgender and people with disabilities who have traditionally been at the receiving end for centuries?**

India has revolutionary legislation to ensure participation of marginalized sections such as women and deprived sections (Scheduled Castes and Scheduled Tribes) in the local bodies. Women have reservation varying from 33 percent to 50 percent in the seats of local bodies and Scheduled Castes are given reservation as per population in the state. Minorities, transgender and specially challenged people do not have reservation of seats. But local elections give opportunity to them to get elected which is otherwise difficult when electoral constituency is large such as Vidhan Sabha and Lok Sabha elections.

Reservation has thrown up different kinds of challenges. Women after getting elected depend a lot on male viz. Husband, father, father-in-law, brother for performing their duties as elected representatives. This phenomenon is widespread from Gujarat in west to West Bengal in East and Jammu Kashmir in North to Tamil Nadu in South. Women elected representatives lack education, exposure, confidence and capacity which acts as serious constraint. Even in the places, where they are educated, patriarchy restricts them from taking decisions independently though, exceptional women can be found in local bodies who defy societal constraints to do magnificent job.

State government through various training institutes have tried to build capacity of all elected representatives in local bodies but failed to train effectively representatives of 2.5 lakhs Gram Panchayat in India. However, focus of training till date has been on class room teaching and technical trainings with limited focus on participatory training and citizenship training<sup>13</sup>.

Widely publicized participatory training tool in current times is "Community Led Total Sanitation" which has been developed by Kamal Kar with Robert Chambers (IDS, UK), and it has been very successful in different parts of world in motivating people to construct toilets and keeping their habitats clean. Such tools for training of elected representatives needs to be developed and used, only then women and deprived sections will have capacity and skills to participate effectively in local bodies.

In addition, citizenship training is a valuable education a citizen gets while attending gram sabha or being part of gram panchayat monitoring committees. Such trainings equip citizens with capacity and skills required for performing role of elected representatives in long run, it also makes local bodies accountable.

Another serious issue is elite's dominance of local bodies which reduces election of deprived sections to tokenism. Elites namely dominant castes in India rule by proxy. They take all the decisions on behalf of deprived castes. Elected representatives from deprived sections play important role in local bodies where they are numerically dominant, otherwise dominant castes hold sway over local bodies. Resistance of local traditional entrenched leadership to share power and regressive social customs prevent women and deprived sections from participating in village councils as a result decentralisation in India lacks democratic characteristics.

#### **How do you visualize rural governance scenario in next ten years? Is the future promising?**

Rural governance scenario is likely to be positive because communities will be more aware in next ten years. Equipped with mobiles, 103.5 crore people<sup>14</sup> can get information from government on toll free numbers easily provided government disseminates these numbers in big way. Internet kiosks in every Gram Panchayat should speed up flow of information from government to citizens. Informed citizens, thus will act collectively and participate in local bodies to make them accountable, thereby trying to achieve goal of Good Governance in every Gram Panchayat of India.

Government hopefully will launch more campaigns such as Swachh Bharat Mission and Gram Uday se Bharat Uday which not only made citizens aware but also took government officials from chairs to door steps of citizens, a significant change from times, when citizens ran around offices for information and forms. However, 3Fs may not happen without "Gram Panchayat Satygraha" as power is never given up easily and voluntarily. Future will see who will be the 'Mahatma Gandhi' of 'Gram Panchayat freedom struggle' in India?

#### **End Notes**

<sup>1</sup> UNDP, 1997, Reconceptualising Governance, Discussion Paper 2, p. 9 .

<sup>2</sup> Hiskey, Jonathan T., The Promise of Decentralised Governance, Making Democracy Work: Democracy, Development and Security (Ed) Connerley, Eaton and Smoke, 2010, p 33

<sup>3</sup> World Bank, 2000, in Craig Johnson, 2003, "Decentralisation in India: Poverty, Politics and Panchayati Raj", *Working Paper 199*, ODI, UK. p. 19.

<sup>4</sup> See for example, Oommen , 1999; Craig 2003, p. 20

<sup>5</sup> Bardhan, Pranab, 2002, "Decentralisation of Governance and Development", *Journal of Economic Perspectives*, p 187.

<sup>6</sup> Ravindranathan M. K, UNDP decentralized community – solution exchange, Aug 23, 2016.

<sup>7</sup> *ibid.*

<sup>8</sup> *ibid.*

<sup>9</sup> Falleti T., 2005, "A sequential theory of decentralisation: Latin American cases in comparative perspective", *American Political Science Review*, Vol. 99, pp 327-44.

<sup>10</sup> *Gram Uday se Bharat Uday Abhiyaan: Villagers witness gram sabha for the first time in their lives* Vikas Jha, UNDP Decentralized Community Solution Exchange, May 24, 2016, <http://solutionexchange-un.net.in/ftp/decn/resource/res10051603.pdf>

<sup>11</sup> Brinkerhoff and Azfar, *Making Democracy Work: Democracy, Development and Security* (Ed) Connerley, Eaton and Smoke, 2010, p 86

<sup>12</sup> *ibid.*

<sup>13</sup> Smoke, Paul, "implementing decentralisation: Meeting neglected challenges", *Making Democracy Work*, p 202.

<sup>14</sup> TRAI, September 2016.

## Modernization, Religion and Female Feticide in India

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### Abstract

Economic growth in India has delivered significant welfare dividends by reducing social and economic inequalities in the country but it has not affected the endemic gender bias in mortality. In fact the magnitude of the problem of gender imbalance has increased since it was first identified by Amartya Sen twenty five years ago. Whatever benefits may have accrued from economic growth and implementation of public policies to redress the problem have been counterbalanced by aggravating child sex ratio due to the increasing practice of selective abortion of female fetuses. This practice is more prevalent among the more educated and affluent women and in the northern and the western but not in the southern and the eastern Indian states. The paper explores possible factors contributing to this problem.

**Keywords:** Missing women, Sex ratios, Feticide, Natality, Mortality rates, Religion

### Introduction

Surging economic growth in India has delivered significant welfare dividends by reducing social and economic inequalities in the country. But it has not significantly affected the endemic gender bias in mortality which has resulted in a huge deficit of women in India. This problem was highlighted twenty five years by Nobel Laureate Amartya Sen. He used the sex ratios to assess the cumulative effects of gender bias in mortality by estimating the additional number of females of all ages would have been alive if there had been equal treatment of the sexes who are alive. Sen referred to those additional numbers of women as 'missing' because they had died as a result of discrimination in the allocation of survival related goods (Sen, 1990, 1992).

Nature favours boys at birth everywhere in the world. For every 100 female children there are 106 male children. Why nature has endowed this pattern in human species is the subject of much debate in biology. But after birth nature seems to favour women. Women in general tend to live longer than men if they receive the same health care and nutritional allocations. Research has also shown women are more resistant to diseases and in general are sturdier than men (Sen 1992; 2003; Waldron 1983; Sheila Ryan Johansson 1991; Alter, et al 2004)

It is plausible that this biological advantage for higher frequency of male births over females is linked to human evolution (Fisher 1930). But environmental, social and economic factors and the cultural patterns which produce and reproduce them have a deleterious effect on gender equality. While expressions of these inequalities are not uniform in general they have tended to disadvantage women in getting the equal access as men to survival related goods such as nutrition, economic opportunities,

health care, medical attention. This relative neglect of women has led to higher rates of morbidity and mortality resulting in a lower proportion of women in many parts of the world than would have been the case if they had equal care.

Sen estimated that the “missing women” numbered close to 100 million in the regions suffering from excess female mortality. By doing so he demonstrated that the gender bias in mortality was not a minor issue but one of the worst human catastrophes of modern times. For example, the number of ‘missing women’ in the early 1990s is larger than the combined deaths from all famines in the twentieth century and also exceeds the combined death toll of the two world wars (Sen 2003).

The gender bias in mortality and morbidity caused by endemic poverty shared the feature that they occur largely unnoticed and do not generate the moral outrage and flurry of activity and intervention that the more “sensational” catastrophes such as famines, floods, tsunamis, earthquakes, wars and refugee crises typically create. The concept of ‘missing women’ has helped to generate public debate, concern and policy discussions that it deserves. This paper is a modest contribution to this debate. It will explore the phenomenon of ‘missing women’ in India by focusing specifically on the trends in sex ratios in India over the past thirty years. The paper is based on data from the most recent censuses, analysis of demographic trends and recent research on the differential child mortality rates in India.

### **Missing Women in India**

Using sex ratio differences Sen has estimated that in the early 2000s India had 37 million missing women which is the second largest number in the world. China with 40 million has the highest number of missing women. More recent estimates put the number in India at 39.4 million. The numbers of missing woman in Pakistan and Bangladesh are estimated to be 4.9 million and 2.7 million respectively (Klasen and Wink 2003; see appendix Table A). The good news is that health and welfare public policies in India have resulted in reducing female disadvantage in mortality in recent years. This is reflected in improving sex ratios between 1991 and 2011. In this period the sex ratio (number of females per 1000 males) increased from 927 to 940. But this improvement has been counterbalanced by a significant decline in the sex ratio of children under the age of 6 years from 945 to 914 in the same period (Table 1). In other words the marginal 1.4 per cent improvement in sex ratio was offset by 3.3 percent decline in child sex ratio in this period. (See Table 1)

The net result of these two trends is that the improvement in the sex ratio has not produced the gender balance in India. The reason for this is the radical medical advances in the past two decades which have created a new female disadvantage through sex specific abortions aimed at the female foetus which has counterbalanced reduction in female mortality. The availability of modern techniques to determine sex of the foetus has made sex selective abortions possible and easy, and is widely being used in countries with cultural norm of male preference. As a consequence of this development the sex ratios have become more imbalanced increasing the magnitude of missing women. On the basis of 2011 sex ratios the approximate number of missing women in India in 2013 was 41 million. These trends are analysed in some detail in the following sections.

### **Variations in Sex Ratios in India**

All India sex ratio hides the fact that there are large variations among the Indian states (Census of India 2011; Rutherford and Roy 2003). Some states have significantly lower sex ratios compared with the national norm. These variations are shown in Table 2. If we use the sex ratio for India as a benchmark it splits the country into remarkable almost contiguous halves. The states in the north and the west have sex ratios significantly below the national benchmark figure led by Madhya Pradesh, Rajasthan,

Maharashtra, Gujrat, Bihar, Uttar Pradesh, Haryana and Punjab. The states in the other half with sex ratios above the benchmark are concentrated in the south and the east with Kerala, Tamil Nadu, Andhra Pradesh, Odisha and West Bengal leading the pack. This can be visually seen in the Map A. (See Table 2 and Map A)

How then can this remarkable division of India be explained? Is this trend influenced by religion or the rate of economic development? Indian Muslims constitute 14 percent of the India's population and they have a higher fertility rate than the Hindu majority. Is it plausible that they also have similar patterns in child sex ratio? Using data from the 2006 National Family Health Survey a recent World Bank study explored the relationship between religion and demographic behaviour including sex ratios of non-Dalit Hindus, Dalits and Muslims. The relevant findings related are given in Table 3. The data indicate that the decline in child sex ratios between 1990 and 2011 cannot be attributed to high child mortality among Indian Muslims. Muslims have lower levels of female mortality as a result of that their child sex ratio is significantly more favourable to girls compared with the upper caste and Dalit Hindus. The differences between non-Dalit Hindus, Dalits and Muslims are statistically significant at .0001 level. In fact these findings suggest that Indian Muslims may have positively contributed to the improvement in the sex ratio between 1990 –2011 but the decline in the child sex ratio between 1991-2011 displayed by the data in Table 1 is almost entirely due the child mortality trends of the Hindu majority. (See Table 3)

An empirically grounded analysis of the relationship between economic development and sex ratios would require relevant time series data which is not available but there appears to be some correspondence between the rate of economic growth and the sex ratios. The states with sex ratios *below* the national norm appear to have the higher rate of economic growth compared with the state with sex ratios above the national norm (see Map B). Are there other cultural values and/or religious traditions which are causing or contributing to this split?

Sen had also noticed the northwest and southeast divide in his analysis of child sex ratios and sex bias in natality in late1990s and early 2000s. He found the division of India (splitting the country into two disparate halves) puzzling and speculated if there were any cultural or deep political significance in the fact that religion based parties have been more successful in making bigger inroads in the north and the west and not in the east and the south. To test this tentative hypothesis he looked at the1999 general election and found that 169 of the 197 (86 %) parliamentary members of the Hindu right wing parties were elected from northern and western states.

Was this link coincidental? The results of the Indian general election of 2014 indicate that religion centred Bharatiya Janata Party - BJP won 216 of the 282 or 77 % of its parliamentary seats from the northern and the western states. This outcome is very close to the 1999 election results noted by Sen. Is it plausible that gender based discrimination which produces imbalances in sex ratios may also be related to cultural and religious factors which have garnered political support for the BJP? However, this may be purely coincidental since the rise of religion-centred politics and the emergence of female feticide are both quite new in parts of India where they have suddenly become common and required further empirical support.

### **Sex Bias in Natality**

As indicated in table 1 child sex ratio in India has been declining since 1991. According to the 2011 Indian census there were 7.1 million fewer baby girls than boys aged 0-6 years. This was a substantial increase over 2001 and 1991 censuses which revealed deficit of 6 million and 4.2 million girls respectively. As noted earlier, the child sex ratio between 1991 and 2011 declined by 3.3 per cent. The

most plausible explanation of this trend is medically inspired prenatal sex determination and subsequent selective abortion of female fetuses. A recently published study on the subject in the British medical journal *Lancet* offers significant evidence on the practice of selective female abortions in India (Jha, P. et al. 2011).

The study was based on the data gathered from three rounds of the nationally representative National Family Health Surveys carried out between 1990 and 2005. It examined sex ratios by birth order in 0.25 million births to estimate the scale of selective abortions of girls. The evidence from economically advanced countries show that only slightly more boys than girls are born with recorded sex ratios at birth of 950-975 girls per 1000 boys (Coale 1991; Hesketh and Xing 2006). This sex ratio varies little by birth order, or by the sex of previous birth (Rogers and Doughty 2001; Almond and Edlund 2008). In India the sex ratio of the second birth, when the firstborn is a girl, is much lower than if the first born is a boy (Jha et al. 2006). The mean number of children born to an Indian woman fell from 3.8 in 1990 to 2.8 in 2008 with households preferring a son over a daughter. Fetal ultrasound has become more available in recent years mainly to monitor fetal health and also for sex determination purposes with subsequent selective abortion of female fetuses (Barida, Paul, Kapoor and Anand 2004).

In their study Jha, et al. (2011) investigated trends over time in selective abortions of girls in India. They compared the sex ratios of second- order births after firstborn girls with the second- order sex ratios after firstborn boys. The study also investigated how these trends might have been influenced by wealth and education of the mother. Their findings revealed a statistically significant fall in sex ratio for second order births when first-born was a girl from 906 per 1000 boys in 1990 to 836 in 2005.

The practice of female fetus abortions is much more prevalent among mothers with 10 or more years of schooling than mothers with no education and in wealthier households compared with poorer households. By contrast they found no significant declines in sex ratios for second-order births when the firstborn was a boy, or for the firstborn. After adjusting for excess mortality rates in girls the number of selective abortions of girls rose from 0-2.0 million in 1980 to 1.2-4.1 million in 1990s, and 3.1-6.0 million in 2000s. A one percent decline in child sex ratio at ages 0-6 years implied 1.2-3.6 million more selective abortions of girls. The study estimated that selective abortions of girls totaled about 4.2-12.1 million from 1980-2010, with a greater rate of increase in the 1990s than in the 2000s. (Jha et al. 2011).

Another significant finding of their study is that between 2001 and 2011 the child sex ratios in the north-western districts of India declined significantly as a result of increasing selective female abortions. This trend is illustrated in Map C. This again points to the divide between the north-west and the south-east regions of India. The sex ratio and child sex ratio in the former were historically lower than the latter and are now declining significantly at a greater rate as a result of selective abortion of girls. (See Map C)

Similar findings have also been reported by Retherford and Roy in their analysis of self-selective abortions in the Indian states. They found the practice of self sex-selective abortions prevalent among women from high status groups in the West, North and East but not in South group of states. The study also found that in Punjab, Delhi, Haryana and Maharashtra which had the high rates of sex-selective abortion the son preference was falling which may lead to fall in sex-selective abortion at some stage in the future (Retherford and Roy 2003; Tandon and Sharma 2006; Sekher and Hatti 2005).

### **Conclusions**

The number of missing women in India now stands in the vicinity of 41 million. Notwithstanding the availability of public policies to redress Indian women's health and wellbeing the magnitude of the

problem has increased since it was first identified by Amartya Sen twenty five years ago. Whatever benefits may have accrued from such policies have been counterbalanced by aggravating child sex ratio due to the increasing practice of selective abortion of female fetuses. This practice is more prevalent among the more educated and affluent women and in the northern and the western but not in the southern and the eastern Indian states.

In terms of sex ratios and preference of male child and associated discrimination that accompanies it India appears to be equally divided into two contiguous halves as displayed in Map A. What may account for this division? It is suggested that some of it may be due to cultural factors which also account for the rise in the support of Hindu religion parties in the northern and western states. The paper has used the rise and support of BJP to highlight this phenomenon. As in 1999 parliamentary elections in 2014 parliamentary elections BJP has won 77 per cent of its parliamentary seats from these states. However, as both developments- rise of the Hindu religion parties and the practice of selective abortions of female fetuses are relatively new phenomena, a deeper understanding of the cause requires sober reflection and grounded and focused further research.

The scale of the problem of selective female abortions identified by studies requires urgent public policies and interventions to stop the practice of premeditated selective gender related abortions which are already illegal under the existing Indian laws. The practice exists because of entrenched discrimination against women in private and public domains of Indian society. The following case study from the state of Haryana provides insights into the discrimination women face. It relates to a 25 year old woman. She and her husband are an educated and affluent married couple from Rohtak, Haryana. She already had a daughter when she became pregnant for the second time. She had an abortion after an ultrasound scan indicated the fetus was female. She later went on to have a son.

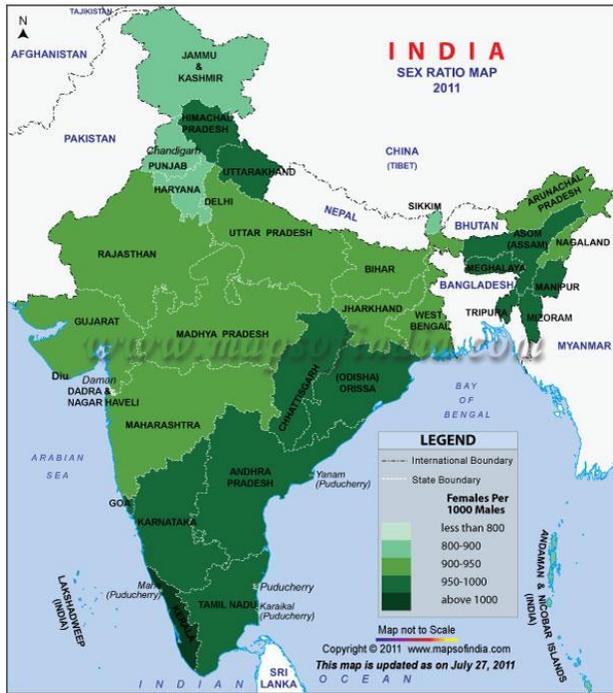
“When I got pregnant the second time, I told my husband that if I am pregnant with a girl, I will abort it. I got my ultrasound done and they told me my baby was a girl. I paid 500 rupees for another ultrasound to make absolutely sure. When it was confirmed I spent 3000 rupees for an abortion. My husband and I fought over my desire to have an abortion. I told him that this society does not value girls and I do not want to give birth to another one. I told him that girls are a burden on the family. They have to face violence in all spheres of life. If the girl commits even a small mistake she and her entire family have to bear the burden. When I gave birth to my first daughter everyone pitied me. They all told me that I could not have a son. The taunts from society and from my in-laws that I would have to face for not having a son forced me to abort. I had no other option. Knowing the amount of harassment my baby would go through after her birth, I think it is much better to die” (Disappearing Daughters 2008).

The practice of sex-selective abortion has risen sharply in the last two decades among more affluent and educated families, making it a ‘national crisis’. The use of medical technologies to decide whether to abort a female fetus is illegal in India but the poor monitoring and implementation of the relevant laws have not improved the situation. More stringent monitoring of the practice is required by the authorities to bring about the law’s effective enforcement to stop the practice and to bring relief to its innocent victims.

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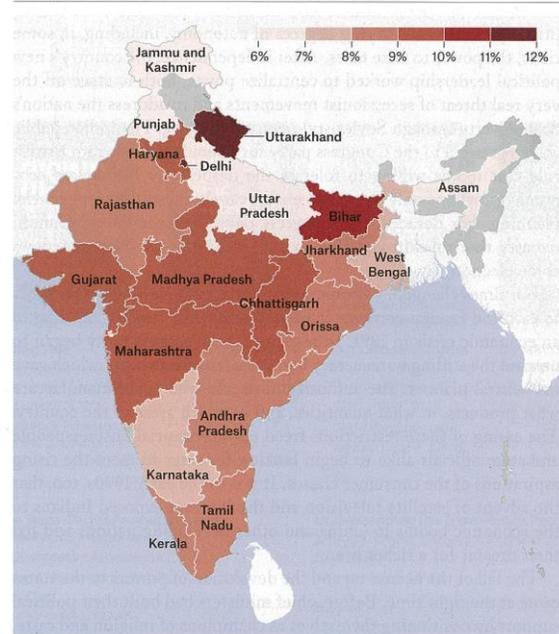
## References

- Almond, D and Edlund, L. 2008. 'Son-biased sex ratios in the 2000 United States census' *Proceedings of National Academy of Sciences*. 105:5681-82
- Baridia, A. Paul, E. Kapoor, SK. Anand, K. 2004. 'Declining sex Ratio: role of society, technology and government regulations in Faridabad district', Haryana, *National Medical Journal of India*, 17:207-11
- Coale, AJ. 1991. Excess female mortality and balance of sexes in the population: an estimate of the number of "missing females", *Population Development Review*, 17:517-23
- Disappearing Daughters. 2008, ActionAid and IDRC. [www.actionaid.org.uk/past-campaigns/disappearing-daughters](http://www.actionaid.org.uk/past-campaigns/disappearing-daughters)
- Fisher, R. 1930. *The Genetical Theory of Natural Selection*, London: Clarendon Press
- George Alter, Matteo Manfredini, Paul Nystedt, 'Gender Differences in Mortality', in Tommy Bengtsson, Cameron Campbell, James Z. Lee, et al. (eds.), *Life under Pressure. Mortality and Living Standards in Europe and Asia, 1700-1900*, Cambridge, Mass.: The MIT Press, 2004, 327-358).
- Hesheth, T. Xing, ZW. 2006. 'Abnormal sex ratios in human populations: Causes and Consequences', *Proceedings of National Academy of Sciences*, 103:1371-75
- Jha, Prabhat. Kessler, MA. Kumar, R, Ram, F. Ram, U. Aleksandrowics, L. Bassani, D. Cnadra, S. Banthia, J. 2001. 'Trends in selective abortions of girls in India: analysis of nationally representative birth histories from 1990 to 2005 and census data from 1991 to 2011' *The Lancet*, 377: May 4.
- Klasen, S. and Wink, Claudia. 2003. 'Missing Women: Revisiting the Debate', *Feminist Economics*, 9:2-3:63-299
- Medindia. 2011. [www.medindia.net/health\\_statistics/general/sex-sex-ratio-in-india-2011.asp](http://www.medindia.net/health_statistics/general/sex-sex-ratio-in-india-2011.asp)
- Retherford, R. and Roy TK. 2003. *Factors Affecting Sex-Selective Abortion in India and 17 Major States*, Mumbai: Institute of for Population Sciences
- Rogers, JL and Doughty, L. 2001. 'Does having boys or girls run in the family?' *Chance*, 14:8-13
- Sekher, TV and Hatti, N. 2005. 'Discrimination of Female Children in modern India: from Conception to Childhood'. [www.unfpa.org/indiapublishedpapers/unfpa\\_publications398](http://www.unfpa.org/indiapublishedpapers/unfpa_publications398)
- Sen, Amartya. 1990. More than 100 Million Women are Missing, *The New York Review of Books*. 37:20 December 20
- Sen, Amartya. 1992. Missing women, *British Medical Journal*, 304:587-7
- Sen, Amartya. 2003. Missing women-revisited. *British Medical Journal*, 327:1297-1298
- Sheila Ryan Johansson, Sheila Ryan. 1991, 'Welfare, mortality and gender. Continuity and change in explanations for male/female mortality differences over three centuries', *Continuity and Change*, 6 (1991)
- Tandon, SL and Sharma, R. 2006. 'Female Foeticide and Infanticide in India: An Analysis of Crime against Girls Children', *International Journal of Criminal Justice Sciences*. 1:1: January
- Waldron, Ingrid. 1983. 'The Role of Genetic and Biological Factors in Sex Differences in Mortality', in, Lopez, AD and Rusicka, LT.eds. *Sex Differences in Mortality*. Cabrera: Department of Demography, National University



Map A

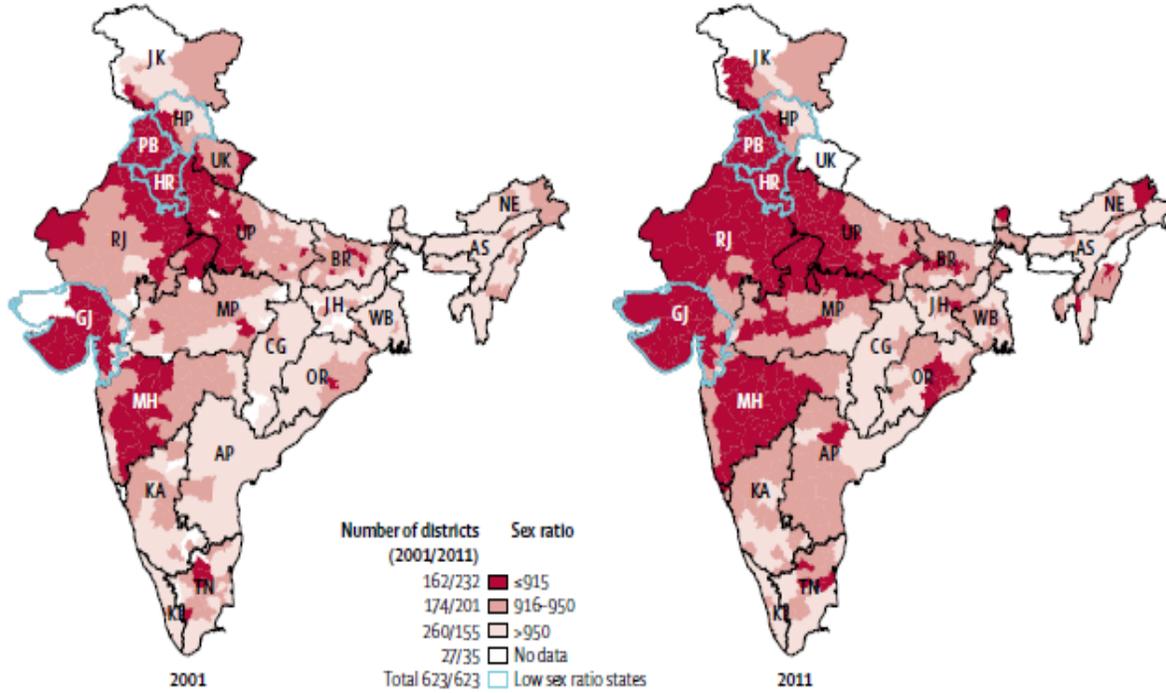
**India's New Growth Map**  
The Country's 20 Largest Economies and Their Average GDP Growth Rates, 2007-13



SOURCE: Indian Planning Commission.  
NOTE: Although Delhi is a federally administered union territory, it is headed by a chief minister, as states are.

Map B

**Map C.** Child sex ratio of girls to boys at ages 0-6 years in 2001 and 2011 by districts (Source: Jha et al 2011)



**Appendix Table A: Number of Missing Women in South Asia and China**

Country	Year	Actual number of women	Actual sex ratio	Expected sex ratio at birth	Expected sex ratio	Expected number of women	Missing women	% missing
China	2000	612.3	1.067	1.050	1.001	653.2	40.9	6.7
India	2001	495.7	1.072	1.039	0.993	534.8	39.4	7.9
Pakistan	1998	62.7	1.081	1.042	1.003	67.6	4.9	7.8
Bangladesh	2001	63.4	1.038	1.040	0.996	66.1	2.7	4.2
Nepal	2001	11.6	0.997	1.037	0.992	11.7	0.1	0.5
Sri Lanka	1991	8.6	1.005	1.052	1.006	8.6	0	0

Source: Adapted from Klasen and Wink (2003) Table 3.

Year	Sex ratio	Child sex ratio
1991	927	945
2001	933	927
2011	940	914

Source: Medindia ([www.medindia.net/health\\_statistics/general/sex-ratio-in-india-2011.asp](http://www.medindia.net/health_statistics/general/sex-ratio-in-india-2011.asp))

State	Sex Ratio	State	Sex Ratio
<b>INDIA_national Sex Ratio</b>	<b>940</b>		
Kerala	1,084	Nagaland	931
Puducherry (2011)	1,038	Madhya Pradesh	930
Tamil Nadu	995	Rajasthan	926
Andhra Pradesh	992	Maharashtra	925
Chhattisgarh	991	Arunachal Pradesh	920
Manipur	987	Gujarat	918
Meghalaya	986	Bihar	916
Odisha (2011)	978	Uttar Pradesh	908
Mizoram	975	Punjab	893
Himachal Pradesh	974	Sikkim	889
Karnataka	968	Jammu & Kashmir	883
Goa	968	Andaman & Nicobar Islands	878
Uttarakhand (2011)	963	Haryana	877
Tripura	961	Delhi	866
Assam	954	Chandigarh	818
Lakshadweep	946	Dadra & Nagar Haveli	775
Jharkhand	947	Daman & Diu	618
West Bengal	947		

Sex Ratios	Non-Dalit Hindus	Muslims	Diff	Non Dalit Hindus	Dalits	Diff
Sex-ratio of children alive	980.8	1053.4	72.50*	981.5	1033.8	52.29***
Sex ratio of children ever-born	972.7	1029.8	57.05*	972.7	1007.6	32.49***

Source: Borooh, Vani. et al 2008 Table 2. \*\*\*p<0.001

## **Myth of 'TINA': Neoliberalism's Origins, Processes, Crises and Persistence in Contemporary World**

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### **Abstract**

This paper is a critique of Neoliberalism. The author provides incisive account of its origins and how it impacts the lives of people. Neoliberal advocates believe that the market is *natural*. It functions according to laws of nature and is therefore scientific. As it is dictated by natural laws, any human intervention amounts to a distortion of its efficient functioning, for humans are flawed. The key proponents of neoliberalism include governments, economists, international institutions, and non-state actors such as transnational corporations. Several eminent research institutes and think-tanks are also complicit in the spread of neoliberal policies across the globe. The paper discusses at length whether neoliberalism is relevant in contemporary world or we have no alternative but to stick to it as a single phenomenon.

**Keywords:** Neoliberalism, Free Market, Monetarism

### **Introduction**

This essay has been titled 'The Myth of TINA', TINA being an acronym for There Is No Alternative, a famous remark made by Margaret Thatcher when she and her US counterpart Ronald Reagan defended economic restructuring in their respective countries along neoliberal lines. Free market is the way of nature. State interference is not. Consumer choice is paramount and should not be inhibited by states. Competition leads to efficiency enhancing and therefore welfare-improving outcomes. This is what neoliberal advocates contend. Interestingly, 'neoliberalism' is a term used mostly by its critics, regardless of their specific orientation. The term is almost never used by its proponents, like Monbiot suggests. For those arguing along his lines, the term 'neoliberalism' has come to represent *all that is evil or wrong with the world today*. From increasing social and economic inequality in Africa and Asia to the global financial crisis of 2008, they argue that it is neoliberal ideology which is at work.

However, it seems to persist despite such fervent opposition from diverse groups such as academics, NGOs, advocacy groups, and so on. Before we embark upon a process of how to understand this persistence of 'neoliberalism', it is important to us to identify the core principles of this ideology, the different key actors and advocates who propound such policies in present times. This will then help us in delineating the underlying *raison d'être* for its continued persistence and relevance. The essay argues that it's a myth propagated by the proponents of neoliberalism that there is no alternative to free market. This inevitability has been constructed by governments owing to domestic and external pressures emanating from international institutions such as IMF and World Bank as well as MNCs. It also argues that the need to come up with a viable alternative strategy is more urgent than ever.

### **Free Market is 'Natural'**

Hagen Schultz-Forberg (2013) traces the origins of neoliberalism in the inter-war period and shows how the present-day version of neoliberalism took off only in the late seventies and early eighties (what are popularly termed today as 'Reaganomics' and 'Thatcherism'). The neoliberal ideology is not unitary. Nor are the processes of neoliberalization uniform. 'By the early 1980s, enabled by the apparent failure and delegitimation of extant alternatives, a transnational repertoire of neoliberal strategies had been established as a package of putatively all-purpose responses to the crisis of international Keynesianism' (Brenner et al 2010). Yet, there are certain commonalities which need to be identified in terms of core propositions or principles and also in terms of the actors involved.

Neoliberal advocates believe that the market is *natural*. It functions according to laws of nature and is therefore scientific. As it is dictated by natural laws, any human intervention amounts to a distortion of its efficient functioning, for humans are flawed. Humans have limited capabilities and understandings. 'Citizens are redefined as consumers whose democratic choices are exercised by buying/selling in the 'free market'' (Monbiot 2016). As a result, they cannot devise something that is perfect. Only *nature* can. Therefore, it is unwise for governments to intervene in the market, however noble their intentions might be.

Given that markets follow the rules of nature, any inequality that subsequently arises is individualized. As you sow, so you reap. You get what you deserve. No actor or institution deliberately creates these inequalities. People who work harder get more. With these fundamental axiomatic principles in place, neoliberals argue that the only function of the state, in fact the only rationale for the state to exist, is the maintenance of law and order. This is because markets cannot function in the midst of chaos. A well-ordered society is essential for markets to function efficiently and allocate resources. The state has no business in meddling with the markets. Markets are perfect and will therefore correct themselves. The costs due to state's intervention are higher than the costs due to any possible market failure.

In the realm of international trade and finance, neoliberals argue for 'free trade' i.e. trade without any restrictions (which could be tariffs, quotas, health and safety standards etc.). They also call for a fully 'floating' exchange rate system i.e. states should not fix the exchange rates of their currencies. The exchange rate shall be determined in accordance with the forces of supply and demand by the currency market. Now that we have a broad idea of what neoliberals say, let us try to list some of the key actors who propound and often implement these policies (although not always to the extreme described here).

### **Neoliberal Policies: Little Choice in a Skewed System?**

When we speak of neoliberal policies, it is important that we avoid treating the domestic and international or global spheres as watertight compartments. These policies are often a result of both 'outside' and 'domestic' pressures and policymakers' proclivities. Let us list the important actors and we will then examine the interplay.

The most important actors in this regard have to be states themselves. States are vested with sovereignty and therefore decide which policies they should pursue. However, states' sovereignty is not absolute, for they do not operate in a vacuum. They operate within a system that consists of other sovereign states and non-state actors. Often, the non-state actors such as transnational corporations are also extremely powerful. Over and above this, we have international institutions such as the International Monetary Fund and World Bank who also influence decisions taken by individual states. We also have economists and the institutes they are affiliated with who exert enormous influence both

at ideational and policy-levels. Let us take a couple of concrete examples to illustrate how neoliberalization processes unfold in a given setting.

India adopted a mixed economic model, combining elements of market economy and planning. After more than four decades of experimenting with this model which also saw half-hearted liberalization attempts, the country faced its biggest macroeconomic crisis in mid-1991 – a severe balance-of-payments crisis. To put it simply, India simply did not have enough foreign exchange reserves to pay for its oil and other imports. The economy was on the verge of a collapse. Naturally, India sought the help of IMF and World Bank.

As *always*, the two institutions agreed to help India get out of the crisis, *provided* the government agreed to the conditions they placed upon it. These came in the form of Stabilization Policy of IMF aimed at curbing excess demand in the short-run to ease the constraints on scarce resources. The other was the well-known Structural Adjustment policy of World Bank which essentially included conditions for gradual deregulation and privatization of the economy. Two back-to-back currency devaluations had not been able to save India. The expenditure-led growth strategy followed in throughout the '80s, with crowding-out of private investments, had been a colossal failure. Keynesianism had failed. There was but one alternative: Neoliberalism. Some 'three generations' of economic reforms have been carried out in the twenty-five years. Yet we have not reached an end-point, for there isn't one. One can see how different actors come into play in the formulation and implementation of neoliberal policies.

Mark Blyth's *The Austerity Delusion* (2013) is an exquisite analysis of how neoliberal ideas and policies gain currency in a post-crisis scenario – why, despite historical evidence pointing to the contrary, politicians, policy-makers and international institutions seem to buy the logic of neoliberalism – you can't spend more than you have. Blyth (2013) lists three factors why austerity doesn't work:

1. As far as the impact of austerity measures are concerned, the poor are hit harder by these spending cuts than the well-off. The impact, in other words, is differential because society is not homogeneous.
2. It's a myth that everybody can save at the same time. For someone to save, someone else has to spend.
3. Cutting public spending in order to ensure that crowding-out of markets for private investments does not occur is a bad idea. There's no evidence to indicate that such steps will improve investors' confidence.

### **Influence of Monetarism: Autonomy is Good**

At the same time, it's equally important for us to understand that it was this ideology that led to the crisis in the first place. In this section, I want to briefly examine the different economic and political actions and the underlying motivations that led to the crisis.

Economists and political scientists who have wrote extensively on the Eurozone crisis point out why the Eurozone was a flawed idea bound to fail right from the beginning. That the member-states did not constitute an 'optimum-currency area' has been cited as a significant reason why Eurozone project was hasty and fallacious. Others argue that economic considerations were completely ignored in terms of whether or not an individual member-state was 'prepared' to be part of a monetary union. They contend that political motivations trumped economic considerations. Germany under Kohl wanted to lead a united Europe and France wanted to balance German power. Up until then, all European countries had pegged their individual currencies to the Deutsche Mark and France saw the creation of the monetary union with a single, new currency for the entire area as a way to restrain German power,

as a way of breaking away from following German monetary policies. The 'Maastricht Convergence Criteria' which specified public debt and budgetary deficit levels for member-states were ignored. Greece and Italy did not satisfy any of the criteria.

It is important that we understand how insidious these processes are and have been, more or less from the beginning. The very creation of the European Monetary Union was a neoliberal project in itself. The extreme independence given to a single monetary authority, the European Central Bank, which would formulate a single monetary policy, and a single currency was a significant erosion of state sovereignty. The autonomy given to ECB was unprecedented. No individual member-state could question ECB's decisions or policies. Its mandate could be altered only by a treaty-change. This is neoliberalism. This idea of extreme insulation from 'political actors' in order to ensure markets, the European single market in this case, functioned 'efficiently' is neoliberal thinking of Milton Friedman and others.

Is that it? Unfortunately no. Not only did monetarist, neoliberal thinking influence the very institutional design and policy-making structure of European Monetary Union, but it caused a greater havoc in the aftermath of the Eurozone crisis. Neoliberal pundits placed blame on the PIIGS (Portugal, Italy, Ireland, Greece, and Spain) countries for the crisis. They argued that it was the lack of fiscal discipline and unsustainable public debt that caused the crisis. This had a profound influence on the EU population. There were protests in Germany which echoed these sentiments. In reality, the reason for the crisis, with the exception of Greece, was accumulation of *private* debt, not government debt. Furthermore, the appropriate policy-response on the part of the affected states was not possible since the EMU creation had taken away all monetary authority from them and placed it in a bank seated at Frankfurt.

Having contributed to the crisis and then unjustly placing the blame on individual member-states, the neoliberal ideology then advocated austerity measures to get out of the crisis. Austerity measures have not once worked. Blyth (2013) demonstrates that with multiple examples from history. However, the fact that they were propounded by economists, accepted by the dominant powers of EU, and forced upon the affected southern countries attests the influence of neoliberal thinking on policymakers. We have seen budget cuts in all key areas such as healthcare, social security, education and so on. Monbiot's (2016) article is important because he argues that it is precisely because the Left has failed to come up with a feasible alternative in the past ninety or so years that neoliberalism has 'triumphed', so to speak. Keynesianism had its flaws and its failures showed in the crises of late '60s and '70s. This is what provided the context for the resurgence of neoliberalism in the first place.

### **Relevance of Neoliberalism: Is there no alternative?**

Why is neoliberalism relevant? It is relevant because, like Brown (2015) suggests, it marketizes every aspect of human life. The freedom it offers is one of consumption. It has no place for democratic freedom. In contrast, neoliberals believe in a strong state (authoritarian or otherwise) and in the insulation of policymaking from popular and political pressures. This essentially implies that the citizens have no space to get their grievances redressed in the legislations decided upon by the policymakers. Power relations are nowhere in the analysis. The long-standing belief in the 'free market' is a myth. A perfectly competitive market simply doesn't exist, nor has it ever existed. Neoliberal diktat of allowing market to allocate resources and services is flawed. Market externalities such as environmental damage are ignored. Market failure is not addressed. They quote Adam Smith's *laissez-faire* idea as supporting their arguments. However, Smith also said, in the *Theory of Moral Sentiments*, that the market is supposed to be a support structure that ensures that the minimum necessities and comforts of life are allocated to everyone. If such allocation does not happen, then the state should intervene.

One might even say that neoliberal ideology thrives on crises. It might seem counterintuitive but the crises it contributes to do not diminish its influence. On the contrary, its influence only increases and a more fervent call for 'more reforms' (meaning privatization, rollback of social security and the like) is made. To quote Brenner et al. (2010), "Rather than causing market-oriented regulatory projects to be abandoned, endemic policy failure has tended to spur further rounds of reform within broadly neoliberalized political and institutional parameters. Neoliberal strategies frequently postpone or displace crisis pressures, instilling an insatiable need for 'next stage' reforms."

No neoliberal economist has ever said, "This is it. There are no more reforms to be done." The end point is never reached, for it doesn't exist. It's just multiple iterations of neoliberalizing reforms that postpone the impending crisis/crises. 'Neoliberalization has never represented a stable institutional 'fix'. The very elusiveness of the fix and the perpetuation of systemic regulatory failure ensnare the regulatory system in a messily persistent form of disequilibrium' (Brenner et al 2010).

It is important and relevant for us because the belief in 'free market' has to go in order for people to realize the need for the state in economic life. It is important that people, especially those at the helm of decision-making, do not think of critiques of neoliberalism as coming from a bunch of progress-hating communists. It is important that they realize that the international institutions such as IMF, World Bank and WTO are *not* ideologically *neutral*.

#### **Is Neoliberalization a single phenomenon?**

Brenner et al (2010) highlight the strengths and weaknesses of different approach to understanding processes of neoliberalization. They argue that the shortcoming of the Varieties of Capitalism approach is that 'it offers little analytical insight into the evolutionary trajectories of neoliberalizing reforms because it conceives neoliberalizing processes in ideal-typical terms'. The 'new constitutionalist' model inspired by historical-materialist approaches are critiqued for imposing a unidirectional logic in a top-down fashion, thereby 'ignoring the possibility of differential strategies of national and local territorial adaptation to this globalizing disciplinary regime' (ibid). Governmentality approaches, on the other hand, run the risk of taking it to the other extreme by 'neglecting the macro-spatial context... if not a celebration of context-specific uniqueness' (ibid). A search for commonalities should not be construed as an argument for uniformity across contexts.

#### **Conclusion**

The key proponents of neoliberalism include governments, economists, international institutions, and non-state actors such as transnational corporations. Several eminent research institutes and think-tanks are also complicit in the spread of neoliberal policies across the globe. This does not, however, mean that neoliberalization processes have occurred uniformly and to the same extent in different contexts, as Brenner et al (2010) point out.

Neoliberalism is particularly relevant today because structural problems such as poverty are individualized by the proponents of this ideology. The burden of addressing problems like poverty and hunger shift from the state to the individual, for it is a self-help system. The market ensures that everyone gets what he/she 'deserves'. 'Inequality is recast as virtuous. Not having a job or being poor is individualized. It's the individual's fault, not a structural problem' (Monbiot 2016). This has been termed 'responsibilization' in governmentality literature whereby an individual becomes responsible for things that which previously would have been the obligation of the state or other institutions.

However, it would be an error to think neoliberalism has to do only with economics. It is an ideological orientation that impinges market-oriented values and ways of thinking into non-economic realms of human life. It is a mode of governing rationality, like Wendy Brown suggests (Brown 2015). 'The political crisis is even more significant than the economic crises neoliberal policies cause. As the state contracts, our ability to influence decisions which impact the course of our lives also contracts. Disempowerment leads to disenfranchisement' (Monbiot 2016). Furthermore, neoliberalism recasts human beings as 'human capital' i.e. financializes them whose overriding objective is to maximize their value in every area of life. Performing arts are a good example. The calibre of the artiste becomes secondary. The crowd-pulling capacity meaning revenue-generating ability of the artiste takes priority. This is what Wendy Brown (2015) suggests neoliberalism does.

The 'triumph' of neoliberalism, so to speak, has occurred notwithstanding the vehement protests and criticisms because its opponents have failed to come up with a viable alternative economic strategy. Also, the 'neoliberal policies' are hardly ever labelled so by the governments or economists. They are usually formulated and implemented in the name of 'fiscal discipline', 'austerity measures', 'creating space for private investments' and so on. Neoliberalism has triumphed in a sense because despite being the cause of financial crises (the 1997 Asian financial crisis, the dot com crisis, the 2008 crisis, Eurozone crisis, crises in Latin America), the simplicity of its core axiomatic principles continue to be attractive and seem to appeal to policymakers and economists alike. Apart from the simplicity of its ideas, another important reason behind its persistence seems to stem from its namelessness, lack of identification in popular discourses, like Monbiot (2016) argues. It reminds me of what Kevin Spacey's character says in *The Usual Suspects*: 'The greatest trick the Devil ever pulled was to convince the world that he didn't exist.'

### References

- Blyth, Mark (2013). "The Austerity Delusion". *Foreign Affairs*. May-June 2013. Pp. 41-56.
- George Monbiot (2016). "Neoliberalism – the ideology at the root of all our problems". *The Guardian*. 15 April 2016.
- Neil Brenner, Jamie Peck and Nik Theodore (2010). "Variegated Neoliberalization: Geographies, Modalities, Pathways". *Global Networks*. 10 (2). Pp. 182-222.
- Schulz-Forberg, H (2013). "Rejuvenating Liberalism: Economic Thought, Social Imagination and the Invention of Neoliberalism in the 1930s" in H. Schulz-Forberg (ed.) *Zero Hours*. Brussels: Peter Lang. Pp. 233-68.
- Wendy Brown (2015). "What Exactly is Neoliberalism?" (interview by Timothy Shenk). *Dissent Magazine*. April 2015.

## Light of Day: Governance in the Age of Video Recordings

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### Abstract

Developing countries continue to be wracked with problems of corruption, despite the widespread understanding of the damage it does. In this paper I briefly review some approaches to improving rule of law and combatting corruption, before proposing a simple heuristic framework for governance. The framework applies to all public officials, and has three elements: 1) knowledge of the rules they are supposed to follow; 2) behavioral monitoring; 3) effective sanctions. I then look more carefully at the second of these elements (monitoring), because this is where technological change – such as cell phone recording devices – has provided immense new opportunities to monitor officials. I then consider various legal and political developments surrounding the use of these technologies, mainly in the United States. I discuss the possible ethical and moral problems associated with recording the actions of officials, as well as the potential for officials to cheat.

**Keywords:** Rule of law, Corruption, Technology, Cell phones, Monitoring

*“There’s no requirements in the Texas State Constitution for bein a sheriff. Not a one. There is no such thing as a county law. You think about a job where you have pretty much the same authority as God and there is no requirements put upon you and you are charged with preservin nonexistent laws and you tell me if that’s peculiar or not. Because I say that it is. Does it work? Yes. Ninety percent of the time. It takes very little to govern good people. Very little. And bad people can’t be governed at all. Or if they could I never heard of it.”* Sheriff Ed Tom Bell, in *No Country for Old Men*, by Cormac McCarthy.

### Introduction

Governance is under the spotlight as never before. Practitioners, aid agencies, development bodies, and others design programs which seek to instil rule of law, improve accountability, reform justice systems, and make other improvements to regimes ‘drenched in corruption, patronage, favoritism, and abuse of power’ (Diamond 2007: 2-3; Zakaria 1997). The pages of academic and policy journals are filled with debates on how to understand, measure, and move toward good governance (Rothstein and Teorell 2008; Fukuyama 2013; Persson et al 2013; Bauhr and Grimes 2014; Rotberg 2014; Agnafors 2013). The consequences for humanity are enormous, especially in the developing world.

Democratization is increasingly producing a new type of regime—one in which rulers who monopolize power and treat the state as their own patrimony are succeeded by competing political groupings or parties that practice a similarly nonuniversal allocation of public resources based on patronage, nepotism, and the exchange of favors (Mungiu-Pippidi 2013: 101).

Governance is a public good – where governance works well, citizens enjoy impartial access to services and public resources; state authorities benefit from a reputation as clean, open and honest; social capital in the form of trust and confidence in public institutions is higher. Citizens expect that their demands and needs will be met impartially and fairly. Governance makes positive contributions to individual rights, economic performance, and political culture. Estimates of effect of corruption on GDP show a clear negative impact (Ugur and Dasgupta 2011). Good governance – defined here as ‘impartial rule compliant behavior by public officials’ – is undermined by corruption, nepotism, ignorance, laziness, intimidation, and other governance sins (cf. Fuller 1969: 81; Rothstein and Teorell 2008).

In political systems in which governance is healthy, public officials (and individuals) behave in rule-consistent ways. Exercise of power is non-arbitrary, consistent, and adheres to agreed rules. In systems in which rule of law is weak, kinship, friendship, favoritism, and other forms of personal connection and distinction matter. Honor codes are more important than the law. Non-meritocratic awarding of benefits such as public sector jobs or contracts is tolerated (Weingast 2010).

So how do we bring about change in regimes with poor governance? Unfortunately there is more than a little skepticism about the ability of institutional or policy reforms to make any difference. The agents may be corrupt, but that’s life, there’s little we can do about it. Indeed the roots may extend well back in time. One deterministic claim asserts that rule of law is linked to historical religious development in which codified religious texts, institutional autonomy, legal experts, and the closeness of religious rules and social norms explain the corresponding strength of rule of law in contemporary times (Fukuyama 2010).

Another cultural perspective is that rule of law comes about when a ‘society transforms from one based on personal relations and personal exchange to one based on impersonal relations and impersonal exchange’ (Weingast 2010). States must create institutions in which access is open and guarantee their independence (cf. Acemoglu and Robinson 2012). This is an enormous challenge for states with weak rule of law and a scofflaw civic culture because of the resistance of those with vested interests in the status quo.

An increasing number of analysts see governance as a collective action problem, rather than as a failure in the principal-agent relationship. According to the collective action perspective, the so-called ‘principled principals’ do not exist – no one has an incentive to blow the whistle, or create and impose lasting disincentives to corrupt behavior. Persson *et al* summarize the problem succinctly:

insofar as corruption is the expected behavior in a particular society, we should expect the key instruments to curb corruption in line with the principal–agent anticorruption framework—that is, monitoring devices and punishment regimes—to be largely ineffective since there will simply be no actors that have an incentive to enforce them. Important to note is that this holds true even if we assume perfect information and even if everyone condemns corruption and realizes that a less corrupt outcome would be more beneficial for the society at large (Persson *et al* 2013: 450-1; Marquette and Peiffer 2015: 6).

Most people in such societies, though wishing for less corruption, are ‘corruptible,’ or resigned to existing practices (Persson *et al* 2013: 456). Perceptions of the likely behavior of others is important to the calculations of how each person acts. If everyone else is corrupt, why not me too? Under this depressing scenario, who will bear the costs of creating a corruption-free society? No amount of information or improvements to monitoring capabilities will enable public officials to be held

accountable. Where impunity is deeply ingrained, officials may simply shrug off accusations or evidence of wrongdoing (Persson et al 2013; Marquette and Peiffer 2015; Mungiu-Pippidi 2013).

If governance is indeed subject to a collective action problem then it is difficult to see a way forward for highly corrupt societies. Persson et al consider that the way out of this dilemma is a 'big push involving all major political, economic, and social institutions' (Persson et al 2013). But what would induce these elites to undertake a 'big push', when they are the most likely to suffer from it? The dilemma for democracies was framed by Barbara Geddes thus – 'it is ironic that the reforms that would improve efficiency and fairness in the provision of government services should be impeded by the same representative institutions whose manifest purpose is to reflect constituents' interests' (cited in Rose-Ackerman 1999: 203-4).

### **Information, Accountability, and Governance**

Before we give up on the ability of principals to hold agents to account, let's look more carefully at their relationship. There are three things that agents need to know: 1) what is expected of them (i.e., clear rules), 2) that they are being monitored, and 3) that the sanctions are severe in the case of misbehavior (cf. Klitgaard 1991). In cases where agents flout the rules, one or more of these three elements is missing. They do not know what is expected of them, or are not monitored, or know there will be no sanctions.

And what are the potential 'bads' that we purport to monitor? Corruption is one of course, perhaps the most famous and most studied. But there are other 'deadly governance sins' too – such as ineptitude, laziness, and ignorance (compare Fuller 1969: 81). Now, it is clear that individuals face different incentives in different social situations. Aeromexico pilots don't jump the queue for takeoff, yet when they drive home after work they may well run traffic lights, like many of their fellow drivers. Players on the Argentine national soccer team generally obey the rules on the field, but at home, they may cheat on their taxes. In their professional lives they know what is expected of them, that they are being monitored, and that there will be sanctions for noncompliance. So from the perspective of the principal the trick is to get these constraining incentives right.

Of the three elements of rule of law (clear rules, monitoring, and sanctioning), the most rapid technological change has occurred in the area of monitoring. Indeed, the single most significant change to the principal-agent relationship is the potentially vast supply-side increase in information made available by cheap mobile phone recording technology. Video recording by citizens in their interactions with public officials (especially the police and other security officials) is becoming ubiquitous. And the recording is happening in both directions: many police forces are themselves videoing these interactions.

The cost of acquiring and storing information has plummeted. With the spread of cheap technologies such as Bambuser and Looxcie, and cell phone applications, the ability of citizens to record interactions with law enforcement is an increasingly feasible means of gathering information on behavior. Advice groups and self-styled watchdogs help inform citizens on how to record public interactions with law enforcement officials, and respond to their negative reactions.<sup>1</sup> Social networks help spread information collected by video surveillance.

By way of comparison, note what Susan Rose-Ackerman says about limits to information (before the advent of cheap video recording technology): 'The probability of detection [of corruption] is a function of whether any of the participants has an incentive to report to the police' (Rose-Ackerman 1999: 56). In

her scenario, information can only come from the insider, particularly those directly involved in the corrupt transaction. That is because the likelihood of gathering information in other ways seems so remote.

The phenomenon of video recording has a potential impact on the principal agent-relationship because it changes the incentive structure that agents face. Information plays a different role in the collective action conception of governance than it does under principal-agent assumptions. In a healthy principal-agent relationship, principals need accurate and timely information on agent behavior. Without information it is impossible to identify and sanction cheaters, and anti-corruption programs in practice have emphasized improved transparency as part of the solution in developing countries (Marquette and 2015: 5; Persson et al 2013: 453). However, the collective action perspective suggests that impunity or other obstacles will work against monitoring and sanctioning, because without the ability to sanction, then information is irrelevant.

Information deficiencies in governance are similar to information deficiencies in markets – they lead to suboptimal outcomes because they permit those with greater information (ie, the agents) to exploit their advantage to the detriment of the public interest (Akerlof 1970). Legal research has shown that regulation can reduce these dangers by providing legal standards for products, to ensure buyers of advertised quality (Glen (2011). But this assumes that the regulations are applied correctly. What if they are not? Insufficient information about the quality of a product being sold might be replaced by insufficient information about the probity of regulators charged with upholding quality standards. The result could be reduced confidence in the quality of public regulation as buyers (or citizens) are not sure whether rules are applied correctly.

The ultimate purpose of monitoring of course is to hold officials accountable (ie, impose sanctions on rule-breakers).<sup>ii</sup> Accountability involves answerability, or ‘formal processes in which actions are held up to standards of behavior or performance’ (Clark et al 2003: xii). The logic of action implies that greater levels of information incentivize rule-consistent behavior because it shines a light on behavior and enables it to be compared to the standard set out in the rule. Information can create social (shaming) or non-social (pecuniary or incarceration) pressures. It facilitates collective action (ie, action to address rule-breaking) by coordinating or ‘tuning’ cognitive understandings about behavior among those who are doing the monitoring.

But even under the most optimistic scenarios – assuming information to be critical to monitoring and sanctioning, and also assuming that it is readily available – the link between information and accountability is problematic. Indeed, if formal codes and institutions such as access to information (ATI) laws were themselves sufficient to guarantee rule of law, we would have seen a dramatic improvement in the past quarter century. In 1990 some 12 states had ATI legislation, while by 2015 the number had grown to 100, according to the Open Government Partnership.

Unfortunately ATI laws do not guarantee rule-consistent behavior if they simply rely on self-reporting. There are high-profile examples (such as the parliamentary expenses scandal in the UK) where it became clear that the information provided by public officials about their behavior was inaccurate or incomplete. The truth was revealed through media investigations rather than self-reporting. Formal transparency which does not lead to sanctions is hardly useful as a means to improve governance (see Kenney 2003; cf. Schedler 1999; Fox 2007). Even if officials are ‘answerable’ for their actions (that is, they are called upon to respond to accusations in some fashion), if they suffer no sanctions there is little reason to cheer (Fox 2007; Clark et al 2003).

Nor does research on the link between transparency and accountability lead to optimistic conclusions. Bauhr and Grimes report that in countries with high levels of corruption, new revelations of corruption often result in cynicism rather than indignation - 'transparency seems to undermine satisfaction and foster resignation' (Bauhr and Grimes 2014: 308). Other empirical findings show that corruption information results in reduced participation in the political process in Mexico (Chong et al 2015), and that transparency does not lead to accountability unless other factors are present, including education and a vigorous and independent media, among others (Lindstedt and Naurin 2010).

Citizens need to be able to act on information they receive for accountability to be real. Where agents themselves administer transparency mechanisms they are less effective. Research has shown that disclosure of assets to the public (as opposed to congressional auditors) by members of congress is strongly associated with control of corruption, at least in democratic countries (Djankov et al 2008). But information which officials themselves provide as they account for their activities may be useful (ie, complete and honest), or may instead be partial or false.

Other research on fourteen countries revealed that responses to requests for information under ATI laws varied widely, with many "mute denials" (ie, refusals either to provide the requested information or a reason for not doing so). Moreover, responses varied according to whether the requester was perceived to be from a marginalized or weak group (OSJI 2006). A number of other obstacles to obtaining information were found. So information guarantees which rely on officials to provide the information are not always sufficient to hold them to account.

In Mexico, Fox and colleagues demonstrate that agency responses to requests for information in Mexico vary across agencies, with more and more responses denying the existence of official information. Petitioners are more successful when they make reference to specific government documents and when they use the technical language of the agency they are petitioning (Fox et al 2011: 46-7). Guerrero and Bookman (2009) also see this denial-of-existence as a growing problem, and surmise that official documentation itself may be adversely affected by expectations of information requests. In other words, agency officials may be increasingly reluctant to commit policy to paper.

### **Sex, Lies and Videotape: The Role of Video Recording**

If officials themselves can't be trusted to provide accurate information, will a greater quantity of information (gathered by citizens) increase accountability? It's far too early to know for sure, and we cannot know how individual cases will affect accountability across an entire polity. However, video evidence is a potential source of evidence in contested cases where official wrongdoing is alleged. It is essentially an extension of access to information and transparency procedures, and it may best be employed as a tool of governance at street level, between public officials and citizens. Action can be taken (with evidence) in cases where problems are spotted.

When Michael Brown was shot dead in Ferguson, Missouri on August 9, 2014, his killer – Officer Darren Wilson of the Ferguson police force – was not wearing a camera. Nor did a passerby capture the incident on a cellphone. The shooting brought underlying racial tensions to a head (especially after a grand jury decided not to indict Wilson) and raised numerous questions of excessive force, especially since eyewitness accounts claimed that the victim had surrendered and assumed a nonthreatening position. But the question of whether there was any justification for the use of lethal force against this unarmed man remained speculative in the absence of incontrovertible evidence.

In a later incident in South Carolina, another unarmed man (Walter Scott) was shot and killed by police officer Michael Slager. On this occasion, a member of the public videoed the incident on his cellphone, which was later used as evidence to charge the police officer with murder. Would Slager have faced disciplinary action without the incriminating video? Would a police inquiry have uncovered the truth? And if so, would it have become public, with proper accountability following?

We don't know, but increasing numbers of police forces across the US are using body cameras to record interactions with the public. Thus, both the public at large and police forces have the capability of introducing extremely important new sources of information to questions of police conduct. The Rodney King video in 1991 helped to lead to the conviction of two officers for civil rights violations, but until the heightened feasibility of citizen recording of police-citizen interaction this was a rare occurrence. Cell phone 'sousveillance' is a form of 'direct transparency' (analogous to direct democracy).

The American Civil Liberties Union, long an opponent of surveillance cameras in public, has given the 'cop-cam' policy a cautious welcome, stating that it would increase police accountability. Video and audio recordings of police-citizen interactions provide at least some evidence about a given incident, which can later be reviewed by relevant oversight bodies or the public at large.

The reaction of the police in some of the cases has been to confiscate the cell phone, delete the recording, and arrest the person doing the recording. Recent legal opinions have sided with those members of the public who do the recordings. In a letter to the Baltimore Police Department regarding a 2010 case, the US Department of Justice supported the rights of citizens to record police officers going about their duty in public, arguing that it would 'engender public confidence in our police departments, promote public access to information necessary to hold our governmental officers accountable, and ensure public and officer safety.'<sup>iii</sup>

In the same month as the Department of Justice letter (May, 2012), the US Court of Appeals ruled that an Illinois law prohibiting recordings of police in public was in violation of the First Amendment. In doing so it agreed with the American Civil Liberties Union, which had claimed that its plan to video and audio record police openly was a First Amendment right.<sup>iv</sup> The Supreme Court declined to review the case later that year. Most other lower courts (but not all) have generally agreed that the public does have this right.<sup>1</sup>

Writing in *The Conversation*, University of Florida Professor Clay Calvert said that

Police officers are government officials and public employees. They work for the very people who want to record their actions. And when citizens record police in public places – locations where cops have no reasonable expectation of privacy, like streets and parks – those citizens are acting as watchdogs on possible government abuses of power. Feidin Santana's video of officer Slager shooting Walter Scott in the back is all the proof needed of the importance of the watchdog role. A simple intent to monitor and observe, not to challenge or criticize, is all that should matter in determining if First Amendment rights are at stake.<sup>2</sup>

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<sup>1</sup> Fields vs the City of Philadelphia is an exception. <https://assets.documentcloud.org/documents/2717327/Fields-v-Philadelphia-No-First-Amendment-Right.pdf>. Accessed 11 April 2016.

<sup>2</sup> <https://theconversation.com/does-the-first-amendment-protect-people-who-film-the-police-56001>. Accessed 11 April 2016.

Sousveillance is disorganized and individual but can be highly effective as a means of raising awareness. On the other side of the equation, some believe that police body-cams reinforce the perception of a surveillance culture gone amok. Lawyers, political scientists, sociologists and others have raised numerous concerns about the effects of surveillance and the 'new transparency' on individual rights (Richards 2013). But their concerns relate mainly to gathering information on members of the public rather than the parties to a specific dispute.

Will turning the surveillance cameras around 180 degrees to record the police at work improve accountability? If used properly, they could provide a consistent source of information which can then be used to improve accountability. Equally, they may simply be a shield behind which police departments can hide to deflect criticism.

Some of the evidence suggests that when body cameras are worn by police, abusive behavior by the police and citizens alike declines. In 2013, a study was conducted by the Rialto, California police force, in which half of the officers out on patrol each day were given a wearable video camera to record their interactions with the public. Some of the officers (especially older ones) resisted the idea that their behavior should be recorded, complaining about 'big brother'. However, in the end all took part and the study found that in the first year, officers used force 60% less frequently, and that officers not wearing cameras were twice as likely to apply force as those with cameras (those wearing cameras who did apply force recorded it in every instance).<sup>v</sup> The author of the study claimed that higher levels of self-awareness among those carrying cameras led to more rule-consistent behavior (Farrar 2013). There was an overall reduction of 88% in the number of complaints lodged against officers in the year of the study.

A 2014 report on body-cams for the US Department of Justice also pointed out numerous advantages, including reduced levels of abusive behavior and a reduction in complaints against the police.<sup>vi</sup> Cop-cams can 'resolve complaints and prevent spurious complaints, enhance transparency and officer accountability, identify and address structural problems within the department, and provide an important new type of evidence for criminal and internal administrative investigations' (Miller et al 2014: 2). The report points out that expectations are changing such that courts, arbitrators and civilian review boards expect footage to be available – the lack of video sometimes raises questions about an officer's credibility.

But studies on the implications of body-cams raise a variety of concerns too. While supportive of the policy, the ACLU stated that there should be numerous safeguards in place to protect the privacy and rights of both members of the public and the officials themselves. These include time limits on holding information, notice to citizens that they are being recorded, and recording only of specific incidents in which behavioral problems are most likely. 'The balance that needs to be struck is to ensure that officers can't manipulate the video record, while also ensuring that officers are not subjected to a relentless regime of surveillance without any opportunity for shelter from constant monitoring' (Stanley 2013).

The 2014 Justice Department report raises potential problems too, including the potential breach of trust and privacy when members of the public know there is a camera recording their interaction with the police. They may be reluctant to talk openly, especially in sensitive cases. There are concerns over how the recorded data would be used, and how long it would be stored for. Also, the issue of consistency and discretion, and when officers should begin recording, is the subject of debate. How consistently should they record? Are understandable discretionary decisions in grey areas likely to suffer? Will rank and file police officers be targeted by superiors using video evidence? Crucially, in terms of accountability, the report acknowledges the need to strike a balance. 'In launching body-worn

camera programs, law enforcement agencies should convey that their goal is to foster transparency and accountability while protecting civil liberties and privacy interests' (Miller et al 2014: 18).

Unfortunately, the report mentions only law enforcement and lawyers when it comes to the issues of how to manage privacy and data integrity. It says nothing about how to draw citizens into the review process. Who has access to the data and who has the right to make judgements on compliance? These would be important features of a wider public oversight program. Some forces put footage directly on websites to provide information and build support for the policy. The public appears to be more supportive where there is transparency.

Drawing in civil society organizations such as civil liberties and human rights groups, transparency NGOs, and the media would build trust and credibility. It would widen the net of participants and increase the quantity of information available. It could also guard against spurious and fictitious claims by the public of inappropriate police behavior. Of course it could be argued that including citizens in oversight would be give rise to populist pressures to sanction officials without sufficient cause, but limiting input to civil society groups (rather than the public at large) could overcome this problem. Nor does the report address the issue of how the information is used to improve police accountability. What steps are taken exactly? Are there mechanisms in place to deal with malfeasance?

#### **Extending the use of video recording**

And what of public agencies more broadly, especially in places where corruption and other governance pathologies are widespread? Can the experience of police cameras lead to further video information gathering to improve governance more broadly? The Justice Department report has lessons for monitoring across various public agencies, though it is clear that the hurdles would be enormous, particularly in those regimes where the rule of law is weak.

Yet there is theoretically no reason why the same monitoring technologies could not be extended to other officials and street-level bureaucrats who have direct contact with citizens. The principal is the same: recording technology allows information to be captured, which can then be used to ensure accountability. From planning regulators awarding construction permits, to environmental agencies conducting impact assessments, to competition authorities evaluating mergers, to highway agencies awarding procurement contracts – opportunities are rife for corruption, partiality, mistakes, and other breaches of the rules. In places where governance is especially bad, information which is recorded on video could potentially be used to bring corruption to light. It could also reveal the weaknesses of patronage appointments in cases in which bureaucrats have insufficient capabilities to carry out their jobs. It could therefore help identify training needs, or lead to wider use of merit hiring and promotion procedures, and less politicized appointment processes.

But would it work? There are plenty of occasions in which video or audio tape has recorded official malfeasance, leading to investigations and prosecutions in which officials were unaffected because they could simply brush accusations aside with impunity. If everyone is on the take, and it seems that in many places that is an accurate description, who cares if someone records my corruption? One possible means to counter endemic corruption would be to keep recordings for future reference and to build a file on behavior. They could be part of a permanent public record. Would the preservation of a video record help to dissuade corrupt officials? Could building a permanent record be part of the solution to impunity in areas of high corruption? Questions would need to be answered about the relative benefits of curbing corruption versus the possible violation of privacy rights. Do public officials have a right to shield their behavior from scrutiny after a certain period of time has elapsed?

Even if there were no impunity, video-recording officials in key agencies would clearly not be effective if they could take action to avoid detection, for example by conducting corrupt transactions off-camera. Equally, the danger exists that information on behavior becomes so ubiquitous and widely available that in effect officials remain obscure and anonymous by virtue of there being too much information. How would we know what to do with it, who to look at, what to look for, and when? Ironically, those most in need of sanctioning might continue to behave without fear of sanction, not simply because of impunity but because they are lost in the crowd of people being recorded.

Moreover, interpreting video recordings leads to its own uncertainties, given that recordings rarely contain the full context of what transpires. What was the truth in the case of the Walter Scott shooting? Could the video be manipulated or staged, and even if not, does it raise the importance of the shooting too much, so that contextual factors are obscured (ie, that the suspect may have threatened someone's life off-camera). Such possibilities seem very unlikely in this case, but it is worth reiterating that simply recording on video the behavior of public officials does not answer every question about a given incident (Ready and Young 2014).

Ethical considerations arise too. From the standpoint of the officials, video recording may cause them to avoid discretionary judgement calls in sensitive cases in which it may be perfectly appropriate to be flexible about application of the rules. Overly rigid adherence to rules simply to avoid accusations of bias or partiality could work against members of the public. Information gathering by video would also affect the privacy of individual citizens in their interactions with public officials, and the public officials themselves. Officials may balk at constant monitoring, considering the invasion of privacy to be unwarranted, or disrespectful of their powers of judgement. As reports have stated with respect to police cameras, recordings could be used against junior employees by supervisors. A solution could be to create an office which is responsible for filtering recorded information and deciding whether to release it, though this also moves the question of accountability back one step, and would not necessarily lead to more transparent government.

For the public, the loss of privacy could be very acute. Participating in recorded interactions with agency officials would certainly lead to less or different types of interaction, with a potential reduction in the quality and availability of public services. On the other side, this risk needs to be weighed against the possibility that fewer bribes or favors would be necessary to obtain services to which the public is entitled.

Given these dangers, some distinctions should be made. Certain public officials deal with individual members of the public in highly sensitive situations, such as professors advising students at public universities, or school counsellors treating students in secondary schools. In these cases making public their interaction would probably worsen the experience for the person being treated and although the professor/counsellor might take advantage of the lack of transparency to engage in corruption, it does not seem worth the risk to the member of the public.

In other cases, public officials engage in duties in public places (on the street, in a public office, etc) in which a generic service is provided to the public. This includes police on the beat, bureaucrats issuing drivers licenses and voter registration cards, advice for unemployed job seekers, school proctors administering exams, and similar services. Note that the relevant issue is the provision of the generic service, not the individual outcome. Hence the proctor's actions in the exam hall are the relevant issue, not the student's grade. Likewise the job adviser's actions in the job center, not the qualifications or

application data of the job seeker. In these cases, recording interactions may be less sensitive, as long as personal data are not revealed.

So with these distinctions, we can say that information gathering and storage by video makes more sense when the public service is 1) generic and not tailored to the specific needs of an individual recipient; and 2) the individual recipient is entitled to the service simply by being part of a qualifying group, without having to demonstrate a personal capability or attainment. In any of these cases, members of the public may wish not to have their image recorded or their identity revealed. Given the potentially disruptive effects of video recording it is also worth limiting its use on a trial basis to agencies with a high level of corruption.

It is also necessary that a functioning judicial system be in place for this to work properly, so that police officers and other officials who abuse their powers are not outside the reach of the law. There would need to be a developed information system to enable the results of any experiment to be diffused, whether through traditional media or new media outlets. It may also make sense to consider broader institutional changes to facilitate fair information availability, such as the creation of an independent information ombudsman with responsibility for filtering and disseminating video recorded information that is collected.

#### **PRISM for the People?**

The present system of information-gathering and monitoring in corrupt countries leaves much to be desired, and on balance the technological shift in the information supply-side heralds improved governance, with caveats. First, it overcomes the problem in which corrupt officials filter or selectively release information to conceal damning evidence. Second, it potentially enables information to be analyzed rigorously and independently by neutral, nonpartisan experts, rather than held within partial and biased institutions whose interest is to protect corrupt officials. Thus, video recordings could contribute to a legitimate and comprehensive portrayal of public activity.

Is this a step too far? Heavy-handed monitoring is what supported police states such as East Germany, and it goes without saying that democratic institutions are essential preconditions so that the monitors themselves are held accountable. But the simple reality is that Stasi-style monitoring is not the problem for the billions of people who suffer from poor governance, and who would undoubtedly welcome greater monitoring of their public officials as a means to check partial, corrupt, and inept application of the law. Of course there are important questions about who is entitled to monitor whom, for what purposes and under what conditions. Since the state is so much better equipped to monitor its citizens than the other way around, and since egregious violations of the law are committed constantly by officials in many countries, the need is clearly to increase the justification for citizen monitoring of officials.

And why would officials accept this type of monitoring if it was likely to expose their many shortcomings? They may not, of course, but the advantage for public authorities is that monitoring may serve two important accountability functions with pro-governance implications: first, most obviously, monitoring could serve as a control on the behavior of their officials; second, it would be a cost effective means of providing assurances to the public that officials are behaving properly. These may be more appealing to agency leaders than to rank and file officers and bureaucrats, but a sweetener for the rank and file would be to alter the incentive structure by linking monitoring to individual professionalization. Combined with training, changes to recruitment practices, career progression, salaries and other

incentives, individuals could find themselves part of more respected and trusted public agencies even as their own career was enhanced.

Public life cries out for new innovations in such areas, especially where governance is weakest. The question is whether the authorities can be convinced that it is in everyone's interest. Should we move beyond the police? If recording of law enforcement officials is deemed appropriate to increase accountability, why not recordings of all public servants at work? The same logic of accountability surely applies, and let's face it, this is not simply a story of police accountability. Why should they be the only public servants in the spotlight?

## References

- Acemoglu, Daron and James Robinson (2012) *Why Nations Fail: The Origins of Power, Prosperity, and Poverty* (New York: Crown Publishers).
- Agnafors, Marcus (2013) 'Quality of Government: Toward a More Complex Definition' *American Political Science Review*, Vol. 107, No. 3 August, pp. 443-445.
- Bauhr, Monika and Marcia Grimes (2014) 'Indignation or Resignation: The Implications of Transparency for Societal Accountability' *Governance*, Vol. 27, No. 2, April, pp. 291-320.
- Chong, Alberto, Ana L. De La O, Dean Karlan, and Leonard Wantchekon (2015) 'Does Corruption Information Inspire the Fight or Quash the Hope? A Field Experiment in Mexico on Voter Turnout, Choice, and Party Identification' *The Journal of Politics*, Vol. 77, No. 1 (January) pp. 55-71.
- Clark, D., Fox, J. and Treakle, K. (2003) *Demanding Accountability: Civil Society Claims and the World Bank Inspection Panel*. Oxford: Rowman & Littlefield.
- Diamond, Larry (2007) 'The Legacy of Westminster: Democracy Assistance since the Founding of NED and the Challenges Ahead' Remarks of Larry Diamond To the National Endowment for Democracy Panel. Library of Congress, June 7, 2007. Cited at <http://stanford.edu/~ldiamond/paperssd/NEDspeechLibraryofCongress.pdf>. Accessed 11 June 2014.
- Djankov, Simeon, Rafael La Porta, Florencio Lopez-de-Silanes, Andrei Shleifer (2008), 'Transparency and Accountability' EDHEC Working Paper, May. Available at: <http://faculty-research.edhec.com/research/edhec-publications/2008/transparency-and-accountability-111722.kjsp>. Accessed 10 June, 2013.
- Farrar, Tony (2013) Self-Awareness to Being Watched and Socially-Desirable Behavior: A Field Experiment on the Effect of Body-Worn Cameras on Police Use-of-Force. March. The Police Foundation. Cited at [www.policefoundation.org/content/body-worn-camera](http://www.policefoundation.org/content/body-worn-camera). Accessed 6 September 2013.
- Fox, Jonathan, Haight L. & Palmer-Rubin B. (2011) "Proporcionar Transparencia ¿Hasta que punto responde el gobierno mexicano a las solicitudes de información pública?". *Gestión y Política Pública*, Volumen XX . Número 1. I Semestre 2011, pp. 3-61.
- Fukuyama, Francis (2010) 'Transitions to the Rule of Law' *Journal of Democracy*, vol 21, no 1, pp 33-44.
- Fukuyama, Francis (2013) 'Commentary: What is Governance?' *Governance*, vol. 26, no. 2, pp 347-68.
- Fuller, Lon (1969) *The Morality of Law* (New Haven, CT: Yale University Press), 2<sup>nd</sup> ed.
- Guerrero, Juan-Pablo and Zachary Bookman (2009) 'Two Steps Forward, One Step Back: Assessing the Implementation of Mexico's Freedom of Information Act,' *Mexican Law Review*, vol. 1, no. 2, pp 1-50.
- Klitgaard, Robert (1991) *Controlling Corruption* (Berkeley, CA: University of California Press).
- Lindstedt, Catharina and Daniel Naurin (2010) 'Transparency is not Enough: Making Transparency Effective in Reducing Corruption' *International Political Science Review*, vol. 31, no. 3, pp. 301-322.

- Marquette, Heather and Caryn Peiffer (2015). Collective Action and Systemic Corruption. Paper presented at the ECPR Joint Sessions of Workshops, University of Warsaw 29 March-2 April 2015
- Miller, Lindsay, Jessica Toliver, and Police Executive Research Forum. 2014. *Implementing a Body-Worn Camera Program: Recommendations and Lessons Learned*. Washington, DC: Office of Community Oriented Policing Services
- Mungiu-Pippidi, Alina (2013) 'Controlling Corruption through Collective Action,' *Journal of Democracy*, vol. 24, no. 1, January, pp. 101-15.
- Open Society Justice Initiative (OSJI) (2006) *Transparency and Silence: A Survey of Access to Information Laws and Practices in 14 Countries* (New York: Open Society Institute).
- Persson, Anna, Bo Rothstein, and Jan Teorell (2013) 'Why Anticorruption Reforms Fail—Systemic Corruption as a Collective Action Problem' *Governance*, Vol. 26, No. 3, July pp. 449–471.
- Ready, Justin, and Jacob T. N. Young (2014) 'Three Myths About Police Body Cams' *Slate Magazine*, 2 September, cited at: [www.slate.com/articles/technology/future\\_tense/2014/09/ferguson\\_body\\_cams\\_myths\\_about\\_police\\_body\\_worn\\_recorders.html](http://www.slate.com/articles/technology/future_tense/2014/09/ferguson_body_cams_myths_about_police_body_worn_recorders.html). Accessed 4 June 2015.
- Richards, Neil M. (2013) 'The Dangers of Surveillance' 126 *Harv. L. Rev.*, 1934. David Lyon (2014) 'Surveillance, Snowden and Big Data: Capacities, Consequences, Critique' *Big Data & Society* vol. 1 no. 1.
- Rose-Ackerman, Susan (1999) *Corruption and Government: Causes, Consequences, and Reform* (Cambridge: Cambridge University Press).
- Rotberg, Robert I. (2014) 'Good Governance Means Performance and Results' *Governance*, Vol. 27, No. 3, July (pp. 511–518).
- Rothstein, Bo and Jan Teorell (2008) 'What Is Quality of Government? A Theory of Impartial Government Institutions' *Governance*, vol. 21, no. 2, pp 165-90.
- Schedler, Andreas (1999) 'Conceptualizing Accountability' in Andreas Schedler, Larry Diamond, and Marc F. Plattner (eds.) *The Self-Restraining State: Power and Accountability in New Democracies* (Boulder, CO: Lynne Rienner), pp 13-28.
- Stanley, Jay (2013) Police Body-Mounted Cameras: With Right Policies in Place, a Win For All. American Civil Liberties Union. October. 6 pp. Available at <https://www.aclu.org/technology-and-liberty/police-body-mounted-cameras-right-policies-place-win-all>. Accessed 13 August 2014.
- Ugur, M., & Dasgupta, N. (2011). *Evidence on the economic growth impacts of corruption in low income countries and beyond*. Found at: <http://eppi.ioe.ac.uk/cms/LinkClick.aspx?fileticket=wrCtuggn-IQ%3D&tabid=3108&mid=5787>
- Weingast, Barry R. (2010) 'Why Developing Countries Prove So Resistant to the Rule of Law' in James J. Heckman, Robert L. Nelson, and Lee Cabatingan *Global Perspectives on the Rule of Law* (New York: Routledge).
- Zakaria, Fareed (1997) "The Rise of Illiberal Democracy." *Foreign Affairs*. 1 Nov. 1997. Web. Accessed 11 June 2014. [www.foreignaffairs.com/articles/53577/fareed-zakaria/the-rise-of-illiberal-democracy](http://www.foreignaffairs.com/articles/53577/fareed-zakaria/the-rise-of-illiberal-democracy).

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<sup>i</sup> See for example NGO Witness, <http://witness.org>. Also Photography is not a Crime. <http://photographyisnotacrime.com>. Both sites accessed 24 September 2014.

<sup>ii</sup> See Schedler (1999) for a discussion of the relationship between accountability on the one hand, and answerability and enforcement on the other.

<sup>iii</sup> The 2010 case involved a private citizen who recorded the Baltimore police arresting his friend. His cell phone was seized, searched, and the recording was deleted. See

[www.wired.com/images\\_blogs/threatlevel/2012/05/united\\_states\\_letter\\_re\\_photography\\_5\\_14\\_2012\\_0.pdf](http://www.wired.com/images_blogs/threatlevel/2012/05/united_states_letter_re_photography_5_14_2012_0.pdf). Accessed 17 June 2014.

<sup>iv</sup> Cited at <http://docs.justia.com/cases/federal/appellate-courts/ca7/11-1286/11-1286-2012-05-08.pdf>. Access 17 June 2014.

<sup>v</sup> [www.nytimes.com/2013/04/07/business/wearable-video-cameras-for-police-officers.html?pagewanted=all&\\_r=0](http://www.nytimes.com/2013/04/07/business/wearable-video-cameras-for-police-officers.html?pagewanted=all&_r=0) Accessed 3 July 2013.

<sup>vi</sup> According to Charles Katz, director of the Arizona State University Center for Violence Prevention and Community Safety, communities where police wear cameras show a 40-60% decline in complaints about police behavior. <http://ccj.asu.edu/news-events/news/charles-katz-and-michael-white-on-msnbc>. Accessed 29 September 2014.