

**18 June 2025**

**Milan Courts**

**“Role of Constitution in Delivering Socio-Economic  
Justice in a Country: Reflections from 75 Years of Indian  
Constitution”**

Justice B.R. Gavai, Chief Justice of India

1. Mr. Giuseppe Ondeï, President of the Milan Court of Appeal,  
Mr. Fabio Roia, President of the Milan Court of First Instance,  
Other Judges of the District,  
Mr. Antonino La Lumia, President of the Milan Bar Association,  
Mr. Roberta Clerici, Chair of the Board of the Italian Chamber  
of International Lawyers,  
Mr. Angelo Mambriani, President of the Corporate Section of the  
Milan First Instance Court,  
Other Members of the Chamber of International Lawyers,  
Academics, legal experts, and respected guests,
2. Good evening to all,

3. It is my first time in Milan, and I must say: what a remarkable way to mark the occasion! To be in the heart of a city known for its art, architecture, and impeccable fashion sense is already special. But to have the opportunity to speak before some of the most distinguished judges and legal professionals of Europe, well, that truly makes it unforgettable.
4. I thank the Chamber of International Lawyers for inviting me to deliver a speech on the topic, *“Role of the Constitution in Delivering Socio-Economic Justice”*. The topic is important not just for India, but for all countries that are striving for a fair and equal society. I would speak broadly on the topic, with a focus on the Indian experience. After all, this year, India is at a significant juncture of time, looking back at 75 years of its journey as a constitutional republic.
5. But, first, I would begin by highlighting why socio-economic justice is necessary for any country.
6. John Rawls, one of the most influential political and legal philosophers of the 20th century, proposed in *“A Theory of Justice”*, and I quote: *“A society, which protects the rights and liberties of people and provides all the economic and social*

*advantages to the greatest benefit of the least advantaged sections in the society, could be considered ‘Just’”<sup>1</sup>* (end quote).

In this understanding, justice is not an abstract ideal. It must take root in social structures, in the distribution of opportunity, and in the conditions under which people live.

7. Justice is therefore crucial for understanding the meaning of progress and development. Amartya Sen, a leading economist from India and a Nobel laureate, articulated that true *“development requires the removal of major sources of unfreedom: poverty as well as tyranny, poor economic opportunities as well as systematic social deprivation, and neglect of public facilities”*.<sup>2</sup> Development, in Sen’s view, is not merely economic growth. It is the expansion of substantive freedoms, i.e. both social and economic.

8. Building upon this, the capability approach, advanced by Sen<sup>3</sup> and another leading philosopher, Martha Nussbaum,<sup>4</sup> refines

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<sup>1</sup> RAWLS, JOHN. *A Theory of Justice: Original Edition*. Harvard University Press, 1971. JSTOR, <https://doi.org/10.2307/j.ctvjf9z6v>. Accessed 13 June 2025.

<sup>2</sup> Amartya Sen, *Development as Freedom* Alfred A. Knopf, Inc (1999)

<sup>3</sup> Sen, Amartya (1984) *Rights and Capabilities*. In *Resources, Values and Development*. Cambridge, Mass.: Harvard University Press; Sen, Amartya (1985) *Commodities and Capabilities*. Amsterdam: North Holland.

<sup>4</sup> Nussbaum, Martha (1988) *Nature, functioning and capability: Aristotle on political distribution*. *Oxford Studies in Ancient Philosophy, Supplementary Volume*: 145- 184; Nussbaum, Martha (2003) *Capabilities as fundamental entitlements: Sen and Social Justice*. *Feminist Economics* 9

the normative basis for assessing human development and justice. Nussbaum argues that a fulfilling human life requires more than access to resources or institutional guarantees, it involves the ability to develop and exercise a core set of “capabilities” essential to human dignity.<sup>5</sup> These capabilities, such as health and education, represent the real freedoms that individuals need to live meaningfully and autonomously.

9. It is within this framework that we must understand the imperative of *socio-economic justice*. It is not merely a matter of redistribution or welfare. It is about enabling every individual to live with dignity, to realise their full human potential, and to participate as equals in the social, economic, and political life of the country.

10. Thus, for any country, socio-economic justice is a crucial aspect of national progress. It ensures that development is inclusive, that opportunities are equitably distributed, and that all individuals, regardless of their social or economic background, can live with dignity and freedom. Without

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(2/3): 33-59.

<sup>5</sup> Ibid

addressing the structural inequalities that marginalize large sections of society, no nation can claim to be truly progressive or democratic. Socio-economic justice, in other words, a practical necessity for achieving long-term stability, social cohesion, and sustainable development.

11. As Chief Justice of India, I take pride in stating that the framers of the Indian Constitution were deeply conscious of the imperative of socio-economic justice while drafting its provisions. The drafting of the Indian Constitution took place in the aftermath of a long and hard-fought struggle for independence from colonial rule. This historic process unfolded against the backdrop of the end of the Second World War and the drafting of the Universal Declaration of Human Rights.

12. In India's struggle for freedom, Mahatma Gandhi, the Father of the Nation, shared his guiding thoughts. On the eve of independence in 1947, the first Prime Minister of India, Jawaharlal Nehru, referred to the vision of Mahatma Gandhi in the following words, and I quote: *"The service of India means the service of the millions who suffer. It means the ending of poverty and ignorance and disease and inequality of opportunity. The*

*ambition of the greatest man of our generation has been to, wipe every tear from every eye. That may be beyond us but as long as there is tears and suffering, so long our work will not be over”<sup>6</sup>*  
(end quote).

13. Furthermore, Dr. B.R. Ambedkar, widely regarded as the chief architect of the Indian Constitution, had long emphasised that a Constitution must address the lived realities of the most marginalised. As early as 1919, he wrote that “the growth of personality is the highest aim of society,” a goal that, he argued, required deliberate and targeted measures to uplift disadvantaged communities.

14. In 1947, while the Constituent Assembly debates were still ongoing, he authored a powerful reflection on the limitations of civil and political rights in the absence of socio-economic security. He wrote, and I quote: “*The fear of starvation, the fear of losing a house, the fear of losing savings if any, the fear of being compelled to take children away from school, the fear of having to be a burden on public charity, the fear of having to be*

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<sup>6</sup> Constituent Assembly Debates (14 August 1947), <https://www.constitutionofindia.net/debates/14-aug-1947/>

*burned or buried at public cost—are factors too strong to permit a man to stand out for his Fundamental Rights. The unemployed are thus compelled to relinquish their Fundamental Rights for the sake of securing the privilege to work and to subsist”* (end quote).<sup>7</sup> This statement captures the indivisibility of civil liberties and socio-economic entitlements.

15. Therefore, the framers of the Constitution incorporated the Directive Principles of State Policy into the Indian Constitution. In defending their inclusion, Dr. Ambedkar argued that while the Directive Principles provisions are not legally enforceable in a court of law, these would guide the State in shaping policies aimed at ensuring the welfare of all citizens.<sup>8</sup> The Directive Principles were a sort of *democratic compact* which were expected to hold the government accountable to the citizens.<sup>9</sup>
16. The Directive Principles of the Indian Constitution reflect the commitment of the Constitution to socio-economic justice and include provisions relating to the right to education,

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<sup>7</sup> B.R. Ambedkar, “States and Minorities (1947)”, in Vasant Moon, ed., *Babasaheb Ambedkar: Writings and Speeches*, Vol . 1, p. 410.

<sup>8</sup> Constituent Assembly Debates (4 November 1948)

<sup>9</sup> Rehan Abeyratne, Socio-economic Rights in the Indian Constitution: Toward A Broader Conception of Legitimacy, 39 Brook. J. Int'l L. (2014). Available at: <https://brooklynworks.brooklaw.edu/bjil/vol39/iss1/1>

equitable distribution of wealth, adequate livelihood, health, nutrition, just and humane conditions of work, protection of children and the elderly, and justice for the marginalized communities. In particular, Article 46 within Directive Principles provides the responsibility of the State to promote the educational and economic interests of the weaker sections of the people, and of the Scheduled Castes and the Scheduled Tribes, and to protect them from social injustice and all forms of exploitation.

17. In the Directive Principles, the framers of the Constitution embedded their vision of an ideal society, one grounded in the values of socio-economic justice. In his last address to the Constituent Assembly, Dr Ambedkar emphasized on the need to attain social and economic democracy, in addition to political democracy.<sup>10</sup>

18. For this reason, we regard the Indian Constitution, which was adopted on January 26, 1950, as not just a political document for governance, but as a promise to society, a revolutionary statement, and a ray of hope for a country coming

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<sup>10</sup> Constituent Assembly Debates (25 November 1949)



out of long years of colonial rule, suffering from poverty, inequality, and social divisions. It was a promise of a new beginning where social and economic justice would be the main goal of our country. At its core, the Indian Constitution upholds the ideals of freedom and equality for all.

19. In the words of Granville Austin, a noted constitutional historian, “*the core of the commitment to the social revolution lies ... in the Fundamental Rights and the Directive Principles of State Policy.*”<sup>11</sup>

20. The framing of the Indian Constitution set a profound precedent for democratic governance in the post-colonial world. India’s Constitution became a model for other emerging nations striving to build inclusive and participatory governance structures.

21. However, in the early years following its adoption, several constitutional experts expressed scepticism about the credibility and long-term viability of the Indian Constitution. Among them was Sir Ivor Jennings, a leading Commonwealth historian and constitutional scholar of the time. In 1951, the

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<sup>11</sup> G. Austin The Indian Constitution: Cornerstone of a Nation, Oxford University Press (1966)

University of Madras invited Sir Ivor Jennings to deliver a lecture on the Indian Constitution. During his address, he was highly critical of its provisions, beginning his remarks with a famously cynical assessment: he described the Indian Constitution as “too long, too rigid, too prolix.”<sup>12</sup>

22. However, the experience of the past 75 years has proved Sir Ivor Jennings wrong. India’s Constitution has played a major role in advancing socio-economic justice for its citizens. In fact, the earliest and most significant steps toward this goal were initiated by the Indian Parliament.

23. Recognising the deep social and economic inequalities in Indian society, Parliament enacted several laws, during 1947-1950, to implement agrarian reforms. However, many of these laws were struck down by the constitutional courts in the early years of the Constitution on the grounds that they violated the right to property of landowners whose land had been acquired for redistribution to the landless.

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<sup>12</sup> Some Characteristics of the Indian Constitution: Being Lectures Given in the University of Madras during March 1952 under the Sir Alladi Krishnaswami Aieyr Shashtiabdapoorthi Endowment. By Sir Ivor Jennings. (New York: Oxford University Press. 1954. Pp. 86.

24. Furthermore, within the first year of the enactment of the Constitution, the Madras High Court struck down a policy of the state government that provided quotas in medical and engineering colleges based on caste and religion. The Court held that such policies violate the equality principle. The Court emphasized that Directive Principles (like Article 46) cannot override Fundamental Rights in Part III. This decision was upheld by the Supreme Court in **State of Madras v. Champakam Dorairajan** (1951).

25. In response to what was perceived as a narrow judicial interpretation of the Constitution, Parliament enacted the first constitutional amendment in 1951. One of the most consequential changes introduced by this amendment was the insertion of the Ninth Schedule. This Schedule was designed to protect land reform and agrarian laws from being invalidated by courts on the grounds of violation of the right to property.

26. The first constitutional amendment of the Indian Constitution also inserted clause (4) to Article 15, which enabled the State to make special provisions for the advancement of socially and educationally backward classes of

citizens, as well as for Scheduled Castes and Scheduled Tribes. This amendment was a direct legislative response to the Supreme Court's interpretation in **Champakam Dorairajan**, which had invalidated caste-based reservations in educational institutions. By explicitly providing constitutional backing for affirmative action policies, Parliament asserted its commitment to social justice and the equitable distribution of opportunities in education and public life. In effect, Article 15(4) gave effect to the socio-economic justice enshrined in Article 45.

27. Apart from that, labour welfare was another area of focus, with a series of laws introduced to protect workers' rights and improve conditions. Key legislation, including the Minimum Wages Act of 1948, the Factories Act of 1948, and the Employees' Provident Funds and Miscellaneous Provisions Act of 1952, sought to safeguard worker interests. The Maternity Benefit Act of 1961 further expanded protections for female workers.

28. However, the tension between Parliament and the judiciary, particularly concerning the scope of Parliament's power to amend the Constitution, revolved around a

fundamental question: how far could constitutional amendments go? While this episode is often remembered as an institutional rivalry between the judiciary and Parliament, it is important to recognise that it unfolded against the backdrop of efforts to realise socio-economic rights.

29. Ultimately, this constitutional dialogue led to the landmark judgment in ***Kesavananda Bharati v. State of Kerala*** in 1973, delivered by the largest-ever bench of 13 judges of the Supreme Court. The Court held that while Parliament has wide powers to amend the Constitution, it cannot alter the “basic structure” of the Constitution.

30. But I must also emphasize that it was in the ***Kesavananda Bharati*** judgment that the Supreme Court observed that the Fundamental Rights (reflecting civil and political freedoms) and the Directive Principles (reflecting socio-economic entitlements) should not be seen as opposed to one another, or antithetical or mutually exclusive. This vision was later reaffirmed and solidified in two decisions of the Court.

31. In ***State of Kerala v. N.M. Thomas*** (1976), a seven-judge Bench of the Supreme Court, took a decisive departure from the

earlier decision in **Champakam Dorairajan** of 1951. In upholding a policy that provided temporary exemption from departmental tests for promotions for Scheduled Caste and Scheduled Tribe employees, the Court embraced a more substantive understanding of equality. The majority held that provisions enabling reservation or quotas for socially and educationally backward classes were not exceptions to the right to equality of opportunity under Article 16(1), but rather expressions or facets of that very right.

32. Chief Justice A.N. Ray explicitly stated that “Article 16(4) is not an exception to Article 16(1); it is an instance of classification”, thereby rejecting the earlier view that saw Article 16(4) as a narrow carve-out. Justice V.R. Krishna Iyer, in his powerful concurring opinion, described Article 16(4) as an “emphatic restatement” of equality. Justices K.K. Mathew and Fazal Ali similarly affirmed that Article 16(4) is a facet of the right to equality of opportunity under Article 16(1), and not an exception to it.

33. This judgment emphasized that equality and equal opportunity, while anchored in the language of civil and political

rights, must be informed by the ethos of socio-economic justice, particularly for historically marginalized and underrepresented communities. The decision in **N.M. Thomas** thus represented a constitutional moment where the Court acknowledged that formal equality alone is insufficient, and that substantive measures are necessary to realize the Constitution's promise of justice and dignity for all.

34. Furthermore, in **Minerva Mills** case in 1980, the Supreme Court held that Part III (Fundamental Rights) and Part IV (Directive Principles of State Policy) must be read harmoniously.

35. This nuanced approach was further strengthened both by Parliament through its legislative powers and by the Supreme Court through its constitutional interpretation.

36. The Indian Parliament has enacted a wide range of legislations aimed at advancing socio-economic justice. These include laws prohibiting socially oppressive and discriminatory practices, such as the *Bonded Labour System (Abolition) Act*, the *Child Labour (Prohibition and Regulation) Act*, the *Dowry Prohibition Act*, and the *Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act*. Each of these statutes

represents a conscious effort to address historical injustices and structural inequalities, and to build a legal framework that upholds the dignity and rights of all citizens.

37. From the late 1970s, the Supreme Court of India significantly broadened the interpretation of the “right to life” under Article 21 of the Constitution by drawing upon the Directive Principles of State Policy. The Court held that the right to life is not merely about physical survival, but includes the right to live with dignity. It expanded this understanding to include a wide array of socio-economic rights, often deriving support from the Directive Principles.

38. The Court recognized that the right to life under Article 21 meant little without the basic conditions that make life worth living. For instance, in ***M.H. Hoskot v. State of Maharashtra***<sup>13</sup> (1979), the Court firmly established that the right to free legal aid for an accused person who cannot afford it is a fundamental right, flowing from Article 21. The Court emphasized that providing legal assistance to such individuals is essential for a fair trial and for ensuring that justice is not denied due to

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<sup>13</sup> M.H. Hoskot v. State of Maharashtra ([1979] SCR (1) 192)



poverty. In doing so, the Court read the fundamental right under Article 21 with the Directive Principle in Article 39A<sup>14</sup>, which explicitly calls upon the State to provide free legal aid, thereby ensuring that this vital socio-economic guarantee was given full effect.

39. In the 1985 case of ***Olga Tellis v. Bombay Municipal Corporation***,<sup>15</sup> the Supreme Court adjudicated on the difficult situation of thousands of pavement dwellers in Mumbai who were facing eviction without any alternative place to live. The Supreme Court ruled that the right to life under Article 21 also includes the right to livelihood. The Court noted that “*no person can live without the means of living.*”<sup>16</sup>

40. The Court’s approach of recognising the emerging rights also captured aspects of dignity at the workplace and in public life. In the case of ***Bandhua Mukti Morcha v. Union of India***,<sup>17</sup> the Court addressed the sad reality that bonded labor was still practiced in some parts of India, even though it was banned by

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<sup>14</sup> Article 39A, Constitution of India 1950

<sup>15</sup> *Olga Tellis & Ors. v. Bombay Municipal Corporation & Ors.* ([1985] Supp. 2 S.C.R. 51)

<sup>16</sup> *Olga Tellis & Ors. v. Bombay Municipal Corporation & Ors.* ([1985] Supp. 2 S.C.R. 51)

<sup>17</sup> *Bandhua Mukti Morcha v. Union of India & Ors.* ([1984] 2 S.C.R. 67)

Articles 23 of the Constitution.<sup>18</sup> The judgement of the Court not only declared it illegal, but also ensured the action on the violators. It gave detailed instructions for freeing and rehabilitating bonded laborers, providing them compensation, and making systemic changes to stop such practices.

41. In the early years of 1990s, the Court read the “right to education” into Article 21. The Court observed that without access to adequate education, the enjoyment of other fundamental rights becomes meaningless. This interpretation was later affirmed by Parliament, which enacted the 86th Constitutional Amendment, explicitly inserting the right to education as a fundamental right under Article 21-A. This was followed by the enactment of the *Right of Children to Free and Compulsory Education Act, 2009*, which gave concrete legislative effect to this constitutional guarantee.

42. I can say that both Parliament and the judiciary have expanded the scope of socio-economic rights in the 21<sup>st</sup> century. Building upon these foundational land reforms, India expanded its approach to include forest rights through the Forest Rights

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<sup>18</sup> Article 23, Constitution of India 1950

Act of 2006.<sup>19</sup> This legislation recognized the historical injustices faced by forest-dwelling communities and aimed to restore their traditional rights over forest resources. The Act sought to correct the colonial-era forest policies that had displaced indigenous communities from their ancestral lands, providing legal recognition to their customary rights over forests they had sustainably managed for generations.

43. Efforts to reduce poverty, enhance job creation, and provide basic services like food, housing, and healthcare have also been critical to India's social policy landscape in the recent decades. The Mahatma Gandhi National Rural Employment Guarantee Act (MGNREGA) of 2005, represents a significant rights-based approach to social security, ensuring 100 days of paid work annually for rural households. Similarly, The Right to Information Act of 2005 has been pivotal in fostering transparency and accountability in governance. The ***People's Union for Civil Liberties v. Union of India*** (2001)<sup>20</sup> case, played a crucial role in establishing the legal foundation for the

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<sup>19</sup> The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006

<sup>20</sup> W.P. (C) No. 196 of 2001

right to food. This case led to the enactment of the National Food Security Act of 2013 providing legal entitlements to subsidized food grains for a large portion of India's population, reinforcing the state's responsibility for food security.

44. In the recent years, in the case of **Justice K.S. Puttaswamy v. Union of India** (2017),<sup>21</sup> wherein the right to privacy was declared a fundamental right, the Court reaffirmed that for marginalized communities, socio-economic rights and civil and political rights are equally important. The Court emphasized that *“every individual in society irrespective of social class or economic status is entitled to the intimacy and autonomy which privacy protects.”*<sup>22</sup> This perspective strikes at the heart of what access to justice truly means: ensuring that constitutional protections are not reserved for the privileged few but extend to every citizen, particularly the vulnerable.

45. Later, during the pandemic period, in **Gujarat Mazdoor Sabha v. State of Gujarat**,<sup>23</sup> the Supreme Court quashed notifications exempting factories from labour laws during the

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<sup>21</sup> Justice K.S. Puttaswamy (Retd.) vs. Union of India ([2017] 10 SCR)

<sup>22</sup> *ibid.*

<sup>23</sup> Gujarat Mazdoor Sabha v. State of Gujarat ([2020] 10 SCC 459)

COVID-19 pandemic. The Court in its ruling said, “*The notifications, in denying humane working conditions and overtime wages provided by law, are an affront to the workers’ right to life and right against forced labour that are secured by Articles 21 and 23 of the Constitution.*” Moreover, the Court held that financial exigencies do not justify overriding workers’ rights to fair wages and job security, reinforcing workplace dignity.

46. More recently, the Court in ***Re: Directions in the matter of demolition of structures***,<sup>24</sup> the Court examined the decisions of the state authorities to demolish homes and properties of an accused, as a punishment even before they were convicted by a court of law. Here, the Court held that such arbitrary demolitions, which bypass legal processes, violate the rule of law and the fundamental right to shelter under Article 21. The executive cannot become judge, jury, and executioner all at once. In doing so, it was noted with empathy, and I quote, “*that the construction of a house has an aspect of socio-economic rights. For an average citizen, the construction of a house is often the culmination of years of hard work, dreams, and aspirations.*”

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<sup>24</sup> In *Re: Directions in the matter of demolition of structures* [2024 INSC 866]

*A house is not just a property but embodies the collective hopes of a family or individuals for stability, security, and a future”* (end quote). The decision reaffirmed that constitutional guarantees must not only protect civil liberties but must also uphold the dignity, security, and material well-being of every individual, especially the vulnerable.

47. Thus, as we look back on these 75 years, there is no doubt that the Indian Constitution has strived for the change in the life of the common people. To summarize, several aspects of the Directive Principles were made enforceable by reading or legislating them as a facet of the fundamental rights. While Parliament took a lead by way of legislation and constitutional amendments, the Supreme Court has consistently worked to transform socio-economic rights, ranging from education to livelihood, into enforceable fundamental rights, which were then given effect by the Parliament.

48. In other words, the journey of the Indian Constitution over the past seventy-five years in delivering socio-economic justice is a story of great ambition and important successes. To take

an example, the earliest initiatives undertaken by the Indian Parliament immediately after the adoption of the Constitution included land and agrarian reform laws and affirmative action policies for backward classes. The impact of these initiatives is clearly visible today.

49. Land and agrarian reforms played a critical role in dismantling feudal structures, breaking the stranglehold of entrenched hierarchies, and redistributing access to land and livelihood. For countless landless and marginalized individuals, especially from oppressed castes and communities, these reforms represented the first real opportunity to secure economic independence and dignity.

50. Affirmative action policies in education, which sought to correct historical injustices and ensure representation of Scheduled Castes, Scheduled Tribes, and socially and educationally backward classes, have been a concrete expression of the Constitution's commitment to substantive equality and socio-economic justice.

51. I have often said, and I reiterate here today, that it is

because of this constitutional vision of inclusion and transformation that I am standing before you as the Chief Justice of India. Coming from a historically marginalized background, I am a product of the very constitutional ideals that sought to democratize opportunity and dismantle the barriers of caste and exclusion.

52. The Constitution has given us the vision, the tools, and the moral guidance. It has shown us that law can indeed be a tool for social change, a force for empowerment, and a protector of the vulnerable.

53. Let me conclude by recalling the words of civil rights leader Dr. Martin Luther King Jr., who said, “The arc of the moral universe is long, but it bends toward justice.” To this, I would add: it bends that way only when we actively work to bend it ourselves.

54. Thank You.