



BULLETIN

OF THE CENTRE FOR POLICY STUDIES

71st Anniversary of Independence Is " India's soil infertile for democracy?"

Let us, first of all, recollect briefly, those historic moments when India's National Flag was unfurled at the midnight hour of August 14,1947. Jawaharlal Nehru's *Tryst with Destiny* speech resonated across the length and breadth of India, as 330 million people celebrated the transition from bondage to freedom. Nehru was, however, concerned about the question "How shall we promote unity yet preserve the rich diversity of our inheritance?" Vallabhbhai Patel, took up with steely resolve, the gigantic task of integrating over 560 princely states with the Indian Union. B.R. Ambedkar, in his masterly closing speech in the Constituent Assembly said: " We must be determined to defend our independence with the last drop of our blood." Sri Aurobindo whose birthday was also August 15th hailed the birthday of free India as "an important date in a new age opening for the whole world, for the political, social, cultural and spiritual future of humanity." On August 14th and 15th Mahatma Gandhi was fasting and praying for communal harmony in the house of a poor family in Calcutta when West Bengal's first Chief Minister, Prafulla Ghosh along with his ministers, called on Gandhiji for his blessings and guidance. "Be humble, be forbearing. Now you will be tested through and through. Beware of power, power corrupts. Do not let yourself be entrapped by its pomp and pageantry. Remember you are in office to serve the poor in India's villages," advised the Mahatma.

It is against such an awe inspiring background that India must be examined in August 2018 when Prime Minister Narendra Modi will deliver from the ramparts of the Red Fort his fifth Independence Day message. Notwithstanding the GDP growth rate and some gains on the diplomatic front, Narendra Modi, as the head of the government, has to answer quite a few questions and clear doubts relating to the BJP led NDA government's policies and decisions. The last few years have witnessed unprecedented disturbances and alarming situations of breakdown of law and order, resulting in fear, feeling of insecurity and helplessness among members of minority communities and disadvantaged sections of the society. The alarm bell has recently been rung by the Supreme Court of India when it wondered whether India was sliding into a mobocracy!

Indian democracy has not been in the best of health during the last few decades. Constitutional norms have been flouted and the Supreme Court had to intervene on several occasions to set things in order. Dr Manmohan Singh, as Prime Minister, felt uneasy about the 'judicial overreach' which according to Fali S. Nariman has been 'the direct result of legislative and executive neglect or 'under-reach.' If the UPA government was accused of 'inaction' the present BJP led NDA government is certainly guilty of 'over-action.' There is a lot of hype in the claims of the government that corruption-free government has been brought in by 'good governance'. There can never be good governance without 'respect for human rights, justice, equity, participation and accountability.' Democracy and human rights go together in ensuring good governance.

In his just published book Fali S.Nariman quotes Granville Austin, the famous authority on India's Constitution, who "perceived an omnipresent 'culture' which has reference to certain traits, and ingrained experiences and attitudes of India's citizenry which makes India's soil infertile for democracy. It is these cultural characteristics that have been inimical to the working of a constitutional democracy in India". That explains, to a large extent, why civil society remained silent and bureaucracy miserably failed to act when lynchings were publicly and shamefully done. Rape of and assaults on women, including small children, continue to be perpetrated in India, rated as 'the most unsafe country for women in the world.'

India's democracy needs course correction on a war footing. Those occupying the seats of power and authority must begin to act with the help of civil society and print and electronic media. What is at stake is not the 2019 general election but the very future of Indian democracy.

The Editor

Now with the grace of God and with the blessings of the Almighty we are laying the foundation of a true secular democratic state where everybody has an equal chance and an equal opportunity.
Sardar Vallabhbhai Patel

The Dawn of freedom

Sarvepalli Radhakrishnan

(From *Great Speeches of Modern India* Edited by Rudrangshu Mukherjee)

This speech has an interesting, if little known, origin. Nehru had requested Radhakrishnan to speak after him on the night of August 14th at the Indian constituent assembly. With the request came a directive. Nehru told Radhakrishnan once he was called upon to speak, he should continue till midnight so that the assembly could then proceed to take the pledge. Thus Radhakrishnan was part of what his biographer called 'an oratorical time-bound relay race'. Radhakrishnan ended precisely at the appointed minute to enable Nehru to administer the pledge. The historian S. Gopal, who wrote biographies of both Nehru and Radhakrishnan, described the performance as 'an unparalleled combination of two masters, in very different ways, of the public art.' (Editor's Introduction)

Mr. President, Sir, it is not necessary for me to speak at any great length on this Resolution so impressively moved by Pandit Jawaharlal Nehru and seconded by Mr. Khaliqzaman. History and legend will grow round this day. It marks a milestone in the march of our democracy. A significant date it is in the drama of the India People who are trying to rebuild and transform themselves. Through a long night of waiting, a night full of fateful portents and silent prayers for the dawn of freedom, of haunting spectres of hunger and death, our sentinels kept watch, the lights were burning bright, till at last the dawn is breaking and we greet it with the utmost enthusiasm. When we are passing from a state of serfdom, a state of slavery and subjection to one of freedom and liberation, it is an occasion for rejoicing. That it is being effected in such an orderly and dignified way is a matter for gratification.

Mr. Attlee spoke with visible pride in the House of Commons when he said that this is the first great instance of a strong Imperialist power transferring its authority to a subject people whom it ruled with force and firmness for nearly two centuries. For a parallel

he cited the British withdrawal from South Africa; but it is nothing comparable in scale and circumstances to the British withdrawal from this country. When we see what the Dutch are doing in Indonesia, when we see how the French are clinging to their possessions, we cannot but admire the political sagacity and courage of the British people. (Cheers.)

We on our side, have also added a chapter to the history of the World. Look at the way in which subject peoples in history won their freedom. Let us also consider the methods by which power was acquired. How did men like Washington, Napoleon, Cromwell, Lenin, Hitler and Mussolini get into power? Look at the methods of blood and steel, of terrorism and assassination, of bloodshed and anarchy by which these so called great men of the world came into the possession of power. Here in this land under the leadership of one who will go down in history as perhaps the greatest man of our age (loud cheers) we have opposed patience to fury, quietness of spirit to bureaucratic tyranny and are acquiring power through peaceful and civilised methods. What is the result? The transition is being effected with the least bitterness, with utterly no kind of hatred at all. The very fact that we are appointing Lord Mountbatten as the Governor-General of India, shows the spirit of understanding and friendliness in which this whole transition is being effected. (Cheers.)

You, Mr. President, referred to the sadness in our hearts, to the sorrow which also clouds our rejoicings. May I say that we are in an essential sense responsible for it also though not entirely. From 1600, Englishmen have come to this country—priests and nuns, merchants and adventurers, diplomats and statesmen, missionaries and idealists. They bought and sold, marched and fought, plotted and profited, helped and healed. The greatest among them wished to modernise the country, to raise its intellectual and moral standards, its political status. They wished to regenerate the whole people. But the small among them worked with sinister objective. They tried to increase the disunion in the country, made the country poorer, weaker and more disunited. They also have had their chance now. The freedom we

All of us, to whatever religion we may belong, are equally the children of India with equal rights, privileges and obligations. We cannot encourage communalism or narrow-mindedness, for no nation can be great whose people are narrow in thought or in action.

Jawaharlal Nehru

are attaining is the fulfillment of this dual tendency among British administrators. While India is attaining freedom, she is attaining it in a manner which does not produce joy in the hearts of people or a radiant smile on their faces. Some of those who were charged with the responsibility for the administration of this country, tried to accentuate communal consciousness and bring about the present result which is a logical outcome of the policies adopted by the lesser minds of Britain. But I would never blame them. Were we not victims, ready victims, so to say, of the separatist tendencies foisted on us? Should we not now correct our national faults of character, our domestic despotism, our intolerance which has assumed the different forms of obscurantism of narrow-mindedness, of superstitious bigotry? Others were able to play on our weakness because we had them. I would like therefore to take this opportunity to call for self-examination, for a searching of hearts. We have gained but we have not gained in the manner we wished to gain and if we have, not done so, the responsibility is our own. And when this pledge says that we have to serve our country, we can best serve our country by removing these fundamental defects which have prevented us from gaining the objective of a free and united India. Now that India is divided, it is our duty not to indulge in words of anger. They lead us nowhere. We must avoid passion, and wisdom never go together. The body politic may be divided but the body historic lives on. (Hear, hear.) Political divisions, physical partitions, are external but the psychological divisions are deeper. The cultural cleavages are the more dangerous. We should not allow them to grow. What we should do is to preserve those cultural ties, those spiritual bonds which knit our peoples together into one organic whole. Patient consideration, slow process of education, adjustment to one another's needs, the discovery of points of view which are common to both the dominions in the matter of Communications, Defence, Foreign Affairs, these are the things which should be allowed to grow in the daily business of life and administration. It is by developing such attitudes that we can once again draw near and gain the lost unity of this country. That is the only way to it.

Our opportunities are great but let me warn you that when power outstrips ability, we will fall on evil days. We should develop competence and ability which would help us to utilise the opportunities which are now open to us from tomorrow morning — from midnight today we cannot throw the blame on the Britisher. We have to assume the responsibility ourselves for what we do. A free India will be judged by the way in which it will serve the interests of the common man in the matter of food, clothing, shelter and the social services. Unless we destroy corruption in high places, root out every trace of nepotism, love of power, profiteering and blackmarketing which have spoiled the good name of this great country in recent times, we will not be able to raise the standards of efficiency in administration as well as in the production and distribution of the necessary goods of life.

Pandit Jawaharlal Nehru referred to the great contribution which this country will make to the promotion of world peace and the welfare of mankind. The — chakra, the Asokan wheel, which is there in the flag embodies for us a great idea, Asoka, the greatest of our emperors, look at the words of H.G. Wells regarding him 'Highnesses, Magnificences, Excellencies, Serenities, Majesties — among them all, he shines alone a star Asoka the greatest of all monarchs.' He cut into rock his message for the healing of discords. If there are differences, the way in which you can solve them is by promoting concord. Concord is the only way by which we can get rid of differences. There is no other method which is open to us. We are lucky in having for our leader one who is a world citizen, who is essentially a humanist, who possesses a buoyant optimism and robust good sense in spite of the perversity of things and the hostility of human affairs. We see the way in which his Department interfered actively and in a timely manner in the Indonesian dispute. (Loud applause.) It shows that if India gains freedom, that freedom will be used not merely for the well-being of India but for *Vishva Kalyana*, i.e., world peace, the welfare of mankind. Our pledge tells us that this ancient land shall attain her rightful and honoured place. We take pride in the antiquity of this land for it is a land which

Act as you speak. Speak as you feel. Do not play false to your conscience by forcibly enslaving it and embarking on actions not approved by it.

Sri Sathya Sai Baba

has been nearly four or five millenniums of history. It has passed through many vicissitudes and at the moment it stands, still responding to the thrill of the same great ideal. Civilisation is a thing of the spirit, it is not something external, solid and mechanical. It is the dream in the people's hearts. It is the inward aspiration of the people's souls. It is the imaginative interpretation of the human life and the perception of the mystery of human existence. That is what civilisation actually stands for. We should bear in mind these great ideals which have been transmitted to us across the ages. In this great time of our history we should bear ourselves humbly before God, *brace ourselves to this supreme task which is confronting us and conduct ourselves in a manner that is worthy of the ageless spirit of India. If we do so, I have no doubt that, the future of this land will be as great as its once glorious past.*

*Sarvabhutdisahamatmanam
Sarvabhutani catmani
Sampasyam atmayajivai
Saarwjyam adhigachati*

Swarajya is the development of that kind of tolerant attitude which sees in brother man the face Divine. Intolerance has been the greatest enemy of our progress. Tolerance of one another's views, thoughts and beliefs is the only remedy that we can possibly adopt. Therefore I support with very great pleasure this Resolution which asks us as the representatives of the people of India to conduct ourselves in all humility in the service of our country and the word 'Humility' here means that we are by ourselves very insignificant. Our efforts by themselves cannot carry us to a long distance. We should make ourselves dependent on that other than ourselves which makes for righteousness. The note of humility means the unimportance, of the individual and the supreme importance of the unfolding purpose which we are called upon to serve. So in a mood of humility, in a spirit of dedication let us take this pledge as noon as the clock strikes twelve.

WHAT AILS INDIA'S AVIATION INDUSTRY?

Admiral Arun Prakash (Retd)

Former Chief of Naval Staff
Ex-Chairman, National Maritime Foundation

India's aviation industry traces its roots to December 1940, when industrialist Seth Walchand Hirachand (1882-1953) established Hindustan Aircraft Limited (HAL) in Bangalore, with American technical assistance and capital and land provided by the Mysore government. Soon after outbreak of WW II, the Government of India (GoI), realizing the strategic significance of this enterprise, bought a one-third stake in HAL.

With a retired, RAF Air Marshal, as its first Director, HAL had barely started licenced production, when it was nationalised in 1943, and handed over to the US Army Air Forces. Functioning as an Aircraft Maintenance Depot, HAL repaired and serviced hundreds of flying boats, fighters, bombers and transport aircraft for the USAAF during the war. Bangalore, thus, became the hub of aviation industrial support to Allied forces deployed in the SE Asia Command, and produced thousands of aeronautical technicians.

Soon after independence, HAL's Chief Designer, the eminent aeronautical engineer Dr VM Ghatage, boldly embarked on three aircraft design projects: each of them attaining a substantial degree of success. Thus, over the next decade, HAL manufactured more than 400 Ghatage-designed aircraft, namely: the HT-2 basic trainer for the IAF, the Krishak observation aircraft for the Army and the Pushpak light-aircraft for civil aviation. Dr Ghatage's last outstanding achievement was design of the HJT-16, Kiran, jet trainer, of which 190 were built and served the IAF for nearly three decades.

HAL's crowning glory, however, came in June 1961 with the flight of the HF-24, Marut, the first jet fighter-bomber, designed and built in Asia. The GoI, in a rare flash of inspiration, had acquired the services of WW II German designer Dr Kurt Tank, in 1956, to

Be ever alert, be ever on the move, go forward, work for a free, flexible, compassionate, decent, democratic society in which Christians, Sikhs, Muslims, Hindus, Buddhists, will all find a safe shelter.

S. Radhakrishnan

help HAL design a jet fighter. An aerodynamically elegant design, the Marut had huge potential as a supersonic fighter, but powered by two, small British Orpheus turbo-jets its performance remained sub-sonic and sub-par.

It is disheartening to note that having initiated a far-sighted project, both the Gol, and HAL failed to display the vision and zeal necessary to salvage this national endeavour, of strategic importance. The IAF, too, remained a mute spectator, as HAL shut the Marut line after delivering just 147 aircraft.

Apart from the Marut, HAL has, since the 1950s, undertaken production of (an estimated) 3000 aircraft, including types like the Vampire, MiG-21, MiG-27, Jaguar, Sukhoi-30 and Hawk. The company has also built a few thousand aero-engines. These statistics, however, refer only to 'kit-assembly' or 'licenced production', and disappointingly, the HAL management failed to acquire, for its personnel, any aircraft/engine design and production skills. So, when the time came for modernizing 125 'HAL-built' MiG-21s, India had to approach Russia and Israel.

This brings us to the well-known saga of the Light Combat Aircraft (LCA), Tejas, designed by DRDO's Aeronautical Development Agency (ADA), and now under production in HAL. A CAG report of 2015 reads, "LCA was required to be inducted into IAF by 1994... the programme was riddled with delays right from the sanction of 1983, and even after three decades, it is yet to be inducted into IAF." Further, it says, "Though ADA claimed achievement of 70% indigenisation; half of these sub-systems are developed with imported electronic components and accessories etc."

The Tejas was 'notionally' inducted into service in 2016, but no lessons had been learnt from the aborted Marut project. Once again, all agencies involved – the Gol, DRDO and HAL – showed a lackadaisical approach, by failing to resolutely address hurdles that cropped up, and the prestigious LCA programme languished. As for the IAF, this 2015 CAG comment describes its indifference; "User involvement right from inception is essential for effective and efficient completion of any project. However, active Air HQ

participation in the LCA Programme started only in 2006 (23 years after inception)."

A project, complementary to the LCA, taken up by the DRDO, was the development of a turbo-jet engine. Initiated in 1986, thirty-two years of irresolute project-management and sporadic development have seen the prototype, named 'Kaveri', yet to qualify for production. Without casting any aspersions, it is clearly a combination of absent political vision and direction, combined with insipid project-management that has thwarted most of our aeronautical programmes. We must introspect how, starting from a similar base in the 1950s, the aeronautical industries of China, Brazil, South Korea and Turkey, have left India miles behind? More importantly, should we persevere with the same unsuccessful model forever? Not if we take a leaf out of the Indian Navy's (IN) book.

The navy's leadership, having persuaded the Gol, in 1960, to embark on indigenous warship building, insisted on taking full 'ownership' of naval ship-design and construction, as well as management of all shipyards. This has seen a hugely successful programme, delivering warships, ranging from patrol-boats, frigates and destroyers to submarines and aircraft-carriers to the IN. The success of the DRDO-funded nuclear submarine project, too, is attributable to the fact that it is staffed by IN personnel and headed by a Vice Admiral, granted powers of Secretary to the Gol. Two excellent lessons emerge from the navy's rewarding shipbuilding experience, for application to India's aeronautical industry.

Firstly, the Gol must mandate intimate involvement of user Service(s) in every project; from the concept/design stage onwards. It is significant that a few years ago, Army, Navy and Air Force members on the HAL Board of Directors were ejected to make place for MoD bureaucrats. In the recommended model, the user must commit funds as well as personnel, to the project. Decisions related to project-management, including design and other changes would be taken, expeditiously, in a collegiate fashion by users and designers.

Secondly, repeated 'heartbreaks' have

I would rather have India resort to arms in order to defend her honour than that she should in a cowardly manner become or remain a helpless witness to her own dishonour. Mahatma Gandhi

demonstrated that rapid decision-making and imaginative project-management are not the forte of scientists or bureaucrats. The GoI must, therefore bring about a paradigm-shift and utilize the huge pool of technical experience and leadership-talent available in the armed-forces, to place suitably qualified officers in the driving-seat of projects considered critical for national security.

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INDIAN RESPONSE TO IMRAN KHAN'S ELECTION VICTORY IN PAKISTAN

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Imran Khan, the cricketer-turned-politician, who will soon be sworn in as Pakistan's Prime Minister is a familiar name and face in India and the not so surprising victory of his party PTI (Pakistan Tehreek-e-Insaf) at the July 25 election has elicited a very modest and measured response from official India.

The spokesman of the Foreign Ministry had to be asked a question by a media representative (July 29) about the Modi government's reaction to the PTI victory and the answer elicited was balanced:

"We welcome the fact that the people of Pakistan have reposed their faith in democracy through general elections. India desires a prosperous and progressive Pakistan at peace with its neighbors. We hope that the new Government of Pakistan will work constructively to build a safe, stable, secure and developed South Asia free of terror and violence."

Those who monitor the testy diplomatic bi-lateral exchanges between the two neighboring nations and the sub-text, as also the inclusion of a certain word or phrase, or significant exclusions noticed that there was no reference to Imran Khan, the man of the election match.

But neither did New Delhi join the US and the EU in casting any aspersions on the credibility of the election, or the pre-poll information "eclipse"

that saw the media being gagged and coerced by the khakis (Pak army) into shaming former PM and jailed PML-N leader Nawaz Sharif and ensuring a PTI victory. This was followed by a courtesy phone call from Prime Minister Narendra Modi to Imran Khan.

In his first post victory speech, Imran Khan made the mandatory reference to seeking better relations with India and earnestly promised that if India took one step forward – then Pakistan under his leadership "would take two". Predictably this was linked to a resolution of the Kashmir issue and hence unlikely to happen any time soon.

For the South Asia watcher, this was a case of déjà vu, for Khan's jailed predecessor Nawaz Sharif had gone down this path in February 1999 when he received then Indian PM Atal Bihari Vajpayee in Lahore and signed a peace declaration – much to the dismay of his Army Chief at the time, General Pervez Musharraf.

Vajpayee was the "enemy" PM as far as the army GHQ in Rawalpindi was concerned and peace with India was anathema, for that would have diluted the primacy of the khaki brigade in the power calculus of a nation that had just demonstrated its nuclear weapon capability in May 1998.

A sullen Musharraf refused to salute Vajpayee in Lahore and very soon the covert intrusion by Pakistani troops in Kargil led to the limited Indo-Pak war of 1999. Kashmir remains intractable and in the intervening years, the terror eco-system in Pakistan has grown in size and intensity.

The Mumbai terror attack of November 2008 is a stark reminder of the reach of the state-supported terror challenge for the neighborhood and the assassination of Governor Salman Taseer in Punjab in January 2011 by his own bodyguard for a purported blasphemy transgression revealed how deeply civil society in Pakistan has internalized sectarian religious bigotry.

The "pitch" for an Imran Khan electoral victory is seen by many in India to have been enabled by the army and the religious right-wing constituency and cheered by a large section of the Pakistani media that

A mind all logic is like a knife all blade. It makes the hand bleed that uses it.

has followed the Rawalpindi diktat. Thus there is a cynical reduction in New Delhi that no matter what Khan declares in public now – even before he has assumed office – the issues relevant to India, namely Kashmir, support to terror groups and the nuclear saber-rattling will be determined by Rawalpindi and in an opaque manner, by Beijing.

Furthermore, the linkage between Pindi and Muridke, the headquarters of groups such as the Lashka-e-Tayyaba, points to the manner in which the religious right wing and its terror assets, as also the street power element can be calibrated to hobble the state apparatus. Imran Khan had effectively demonstrated this ability in his shrill campaign against the Nawaz Sharif government in late 2016.

The assessment of the mainstream Indian media is illustrative. The Indian Express noted editorially (July 27): “While the world can only wait for the Imran government’s policies, it is safe to assume that he will be more willingly guided by the Pakistan Army than the two predecessor governments. In interviews and other remarks, he has projected a hardline position on Kashmir, trade with India, and other bilateral issues.... what has been truly worrying in these elections is the so-called mainstreaming of the jihadi-terrorist-militant-extremist groups, who put up candidates.”

The Hindu (July 27) observed editorially about the many “tests” for the next PM of Pakistan: “Mr. Khan will also have to tackle terror groups inside Pakistan, those that target Pakistani forces and those trained with Pakistan’s support to target its neighbors. It is here that Prime Minister Khan will be most tested; these groups function with impunity, and it remains to be seen whether his softness during the campaign against them will carry over into the primeministership.”

For many Indians, a satirical column from the Pakistani media that dwelt on ‘Im the Dim’ has created an image of a cricketer-playboy who has now turned to religion and has an attention deficit disorder.

In the last week, salacious excerpts from a book by Khan’s estranged wife Reham Khan having been doing the rounds and her interviews have been widely

published and circulated on social media. Some of her remarks will be pondered over, as for instance this one: “Don’t go by the ‘Im the Dim’ image, he’s not dim. He can be Machiavellian in politics.”

And as regards the immediate future – Reham Khan offers a vivid thumb-nail assessment about Imran Khan for Indian readers: “He (Khan) knows he has stolen the mandate. They (the army) wanted a boot polisher, and right now no one polishes boots better than him. But I think the benevolence will be short-lived.”

It is unlikely that Indian PM Modi will be invited for the swearing in of PM Imran Khan on August 11.

However, the next few months will be challenging for a charismatic politician who will be holding high office (any office) for the first time and will have to walk the talk with an electorate, which has huge expectations and an army that has its own game-plan for its protégé.

India will be watching as to who will prevail.

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KILLING A MILLION MOCKING BIRDS

Prof. Manoj Das

It was a pleasant drive along a road connecting two distant towns, cutting through unending stretches of green fields overlooking a lake. But I had to stop behind two ordinary buses overloaded with passengers, a bullock cart and a cycle rickshaw.

I got down. There was a “Rasta Roka”. About a dozen men squatted on the road, flanked by an almost equal number of policemen. Both the parties looked absolutely relaxed.

I talked to the middle-aged captain of the Satyagrahis, seated at the centre in Padmashana, and understood that their hamlet, a furlong away, had several problems. Hence their party’s decision for direct action. A summary of the dialogue that followed:

“My friend, why don’t you approach the administration or your M.L.A.?”

“They only promise. This way they will be obliged to act.”

Criticism and critique lie at the core of democratic governance. Tolerance of dissent is equally a cherished value.

Justice D.Y. Chandrachud

“But how are we responsible? What right have you to block our passage?”

“This road passes by our village, yes, our village. We have the right to block it.”

“Gentleman, would you, if you could, block us from breathing the air because it blows by your village? The road, like the air, is not yours. Please give way.”

“We are agitating non-violently. Your car can roll over us.”

“This is worse than physical violence, moral violence at its worst.”

“I don’t want to argue with you!”

He threw away his bidi with impressive force. He was angry. I understood that the collective ego was at work through him. I retreated. It was a breezeless noon, the summer sun at its hottest. Inside the buses the folks, mostly villagers, were sweating profusely and cursing their luck. A man was rebuking his wife because she had not carried water for their thirsty wailing baby. There was no source of water within sight.

My attention went over to the distressing sight in the rickshaw. An octogenarian woman sat in it supporting a rustic girl, pregnant. The rickshaw-puller informed me that she belonged to his village and was in pain and he volunteered to take her to a health centre still a mile away. She was probably in a swoon. “I wonder if I will be able to...”

He wiped his face with the end of his tattered shirt. I dared to present myself before the leader again and appealed to him to let that solitary vehicle pass. He cast a solemn look at me. “How do you expect me to be partial?” he demanded. I realised that he was inspired by new ideals of democracy and equality. “Look here, gentleman, she could die!”

Instantly he looked upward, simultaneously raising his arms. I realised that he was now inspired by the ancient ideal of Karma or Destiny. I realised also a greater truth: we are passing through a time when we must accommodate in our codes of conduct

laws and ideals of several planes.

Once I had the occasion to witness an Express train detained by a crowd. I can never forget those hundred faces at the doors and windows – seething in despair and anxiety. Some had cases in the court, some had to appear in interviews, some had grave problems at home requiring their immediate presence. A train was the symbol of the nation – It carried together men and women of all religious and political faiths, people from so many regions and strata of the society. A group of people stopping it meant holding the nation to ransom. I also remember the horrendous sign of triumph on the faces of the leaders – atavistic return of a primeval pride of vanquishing an enemy – now an assortment of humanity caught unawares.

The absolutely innocent mocking bird used to be interpreted as teasing others by mimicking their voices and killed. In those hapless passengers I saw flocks of mocking birds unable to comprehend any sense behind their punishment. Over the decades we have killed millions of mocking birds. Are we to believe that the leaders cannot understand the cruelty beneath a Rail Roko, the stark reality that they were depriving thousands of their freedom by perverting their own freedom to license? Are they really not possessed by some spooks? Only once a gentleman-Chief Minister had the audacity to declare such actions deplorable, but he denied it a day after under his party’s insistence.

It so happened that I knew one of the leaders, say Shiman-ji, who often swore by Ambedkar. During a chance meeting I asked him if Baba Saheb would have approved of his Rail Roko, for the latter believed that in independent India all grievances must be addressed legally and constitutionally. “Well, well ...” Shriman-ji generously smiled and nodded.

Does Nemesis really work? Now that Shriman-ji is no more and readers cannot identify him, I can refer to his tragedy. Life in a major city was once half-

In the new era, digital capabilities will serve as rocket fuel for a country’s economy.

Susan Lund and Laura Tyson

paralysed by a Bandh called by a party. Shriman-ji's party announced that it will demonstrate what real Bandh is and it indeed fully paralysed life in the city the next week. Shriman-ji was taking lead in one area, haranguing crowds non-stop. At the end of the day it came to light that his grandson, suddenly taken ill, failed to reach the hospital as their car was attacked and detained on its way for hours. The boy died. It reminds us of Arthur Miller's play, "All My Sons". The main character knowingly passed on defective engine parts for the Air Force planes and lost his pilot son in a crash that was inevitable.

The Buddha announced that he will not embrace Nirvana until the last man, disillusioned with life, had embraced it. He did not foresee the population explosion. We hope, God does not decide that each compatriot of Shriman-ji must go through similar experiences, in this life or hereafter, to be disillusioned with such activities. Let's hope God has some other strategy for the future of mankind.

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TOWARDS A MORE RESPONSIBLE AND RESPONSIVE CORPORATE GOVERNANCE

Prof. (Dr.) R Venkata Rao

Vice Chancellor

National Law School of India University
Bengaluru

When I went through the concept note for the conference, I am reminded of Kautilya's reference to the businesses. Why do you have to do business? To generate wealth (artha) and to earn profits. What is the purpose of wealth and profits? To share among the shareholders. Why? Wealth and profits make the shareholders, employees, customers, suppliers, distributors and also the government happy. However Kautilya stated that happiness is obtained not by wealth and profit only, but by doing things properly and doing the right things – "*sukhasyamoolam dharma*". Dharma without wealth, according to Kautilya, is toothless - "*dharmasyamoolamartha*", and wealth without dharma is useless because a poor person

cannot support the entire society. Indian culture has always emphasised that "*sukhasyamoolam dharma*" and "*dharmasyamoolamartha*" taken together – namely wealth- do not lead to directly happiness. Happiness for self and others results through ethical behaviour: wealth or resources make ethical behaviour possible.

In the modern corporate culture, this ethical behaviour of the business is called "Corporate Governance" which has four pillars supporting it, namely Transparency, Accountability, Fairness and Responsibility. 'Transparency' requires ensuring timely, adequate, and accurate disclosure of all material information. These disclosures must be over and above the statutory provisions given under rules and regulations. 'Accountability' refers to the board of directors, who are accountable not only to shareholders but to stakeholders, and executives of the company are accountable to the board for the performance of the tasks assigned to them. 'Fairness' refers to the fair and equitable treatment to all shareowners, including minorities, and to all participants in the corporate governance structure. 'Responsibility' lies on the shoulder of the board of directors and management for their behaviour and there must exist a means for penalizing mismanagement.

Post liberalization for over nearly 3 decades, we have seen a strong shift from the pre-existing socialistic disposition for businesses towards a more open market-oriented approach under the control of regulations. In the 1990s, Securities and Exchange Board of India (SEBI) rapidly began ushering in corporate governance reforms as well as a measure to attract foreign investment. The first corporate governance initiative was sponsored by industry. In 1998, a National Task force constituted by the Confederation of Indian Industry (CII) recommended a code for "Desirable Corporate Governance," which was voluntarily adopted by a few companies. Here, we witnessed the influence of the United Kingdom's developments as an influencing factor because the CII Code was largely based on the Cadbury Committee report issued in the U.K.

The world being produced by management graduates is not pleasant. It's a utopia for the wealthy and powerful.

- Martin Parker

Thereafter, a committee chaired by Mr. Kumar Mangalam Birla submitted a report to SEBI “to promote and raise the standard of Corporate Governance in respect of listed companies.” Based on the recommendations of the Kumar Mangalam Birla committee, the new ‘Clause 49’ containing norms for corporate governance was inserted in 2000 into the Listing Agreement that was applicable to all listed companies of a certain size. Although the substance of the corporate governance norms contained in ‘Clause 49’ was similar to those recommended in the U.K. by the Cadbury Committee Report and these subsequently found their place in the Combined Code on Corporate Governance, there was one material difference. While the Combined Code operated as a voluntary code on a “comply-or-explain” basis, ‘Clause 49’ was mandatory for large listed companies. Hence, there was explicit recognition that what works in the U.K. will not necessarily work in India due to the various institutional circumstances and other local factors.

Subsequently, following Enron and other global corporate governance scandals that occurred at the turn of the century, SEBI decided to strengthen Indian corporate governance norms. In the wake of the enactment of the Sarbanes-Oxley Act (“SOX”) in the U.S. in 2002, SEBI appointed the Narayana Murthy Committee to examine ‘Clause 49’ and recommend changes to the existing regime. The key mandatory recommendations focus on strengthening the responsibilities of audit committees; improving the quality of financial disclosures, including those related to related party transactions and proceeds from initial public offerings; requiring corporate executive boards to assess and disclose business risks in the annual reports of companies; introducing responsibilities on boards to adopt formal codes of conduct; the position of nominee directors; and stock holder approval and improved disclosures relating to compensation paid to non-executive directors. Following the recommendations of the Narayana Murthy Committee, SEBI, on October 29, 2004, issued a revised version of ‘Clause 49’, which came into effect from January 1, 2006. Thus, we see that although there was some reference to the English position

under the Cadbury Committee report during the initial stages of formulation of corporate governance norms in India, these norms have subsequently been strongly influenced by developments in the U.S. The corporate governance reforms during this era can at best be said to operate as a mixed transplant from both the U.S. and the U.K.

Talking about ‘Transparency’ which is one of the pillars of Corporate Governance and its most commonly discussed benefit is that it reduces asymmetric information by appropriate disclosures. Corporate governance at its core involves the monitoring of the corporation’s performance and the monitor’s capacity to respond to poor performance – the ability to observe and the ability to act. Most information concerning a corporation’s performance is uniquely available from the corporation. Without effective disclosure of financial performance, existing investors cannot evaluate management’s past performance, and prospective investors cannot forecast the corporation’s future cash flow.

One might well respond that corporations have an incentive to voluntarily provide financial information in order to lower their cost of capital. But, delivering information to investors is easy; but delivering credible information is hard. There is established straightforward relationship:

Investment requires good corporate governance, and good corporate governance requires the capacity to make credible disclosure of financial results.

Effective corporate governance also requires a second form of transparency – ownership transparency. Shareholders can suffer from poor corporate performance; however, they also can suffer from a controlling shareholder’s divergence of earnings or opportunities to itself. For this reason, it is also important that companies disclose the identity of shareholders who own significant amounts of corporate stock.

In this regard the response of corporate law is to control conflicts of interest among corporate constituencies. These conflicts are referred to in

In the United States, the top ten percent now takes home almost half of the national income.

Ronald Inglehart

economic literature as “agency problems”. There are three generic agency problems. The first agency problem relates to the conflict between the company’s managers and its owners (being the shareholders). The second relates to the conflict between the majority or controlling shareholders on the one hand and minority shareholders on the other. The third agency problem relates to the conflict between the owners and controllers of the firm (such as the shareholders and managers) and other stakeholders (such as creditors, employees, consumers and public), with many of whom the company may enter into a contractual arrangement governing their affairs inter se.

Corporate Law, including SEBI Regulations, attempts to reduce the frictions among the various constituencies by balancing the information demanded by the constituencies and at the same time protecting certain information as ‘confidential’ which essentially is a tool for successfully competing in the product market. Corporate disclosures, in this respect, have evolved and transformed over the period of time. What was formerly a managerial prerogative is now placed under the direction of the statutes and regulations of government bodies, a domain of private discretionary choice or freedom is minimized or eliminated and the system is based on disclosure based mandatory reporting, leaving slight discretion to managers.

“Sunlight is the best of disinfectants”, as propounded by Justice Brandeis. However, his observation must be balanced by the recognition that excessive light without adequate protection may cause skin cancer. The Disclosure Based Reporting is suitable for developed countries where investors themselves are either able to properly evaluate the information disclosed in a prospectus, or can afford to pay for high-quality professional advisory services. It appears to be an erroneous presumption that “common man has uncommon wisdom” to understand the complex information contained in prospectuses for the purpose of making informed investment decisions.

I would like to close with the phrase from

Arthashastra, from where I started – Birds do not make their nest on trees which do not bear fruit.

(Keynote address delivered at National Conference on “Corporate Streamlining” on 31st January 2018 organised by JSS Law College, Mysore.)

* * *

BHARATA VARSHA; THE GURU OF THE WORLD

Dr. (Mrs.) Prema Nandakumar

History has proved that India that is Bharat was chosen to be the temple of the Supreme even when creation came into being. With an ancient history that rivals and even outsoars Greek and other civilizations, India does not live in the past. There is no past for her. Her past is her present and will be her future too. For, hers is an undulating destiny which has seen creation itself as a whole, fulfilling the Divine’s intentions, self-create. The Vedic Indians hailed Vishnu in a magnificent image:

“May the Devas bless us

From where Vishnu strode forth through

The seven regions of the earth” .

After Rishi Medathithi hailed Vishnu thus, there have been innumerable images and descriptions and even the legend of Mahabali-Vamana avatara tacked on to this image striding over earth, heaven and the nether regions. But the basic idea has not suffered change. Even today the Vishnu who was the object of veneration for the Vedic rishis continues to be saluted by millions of Indians.

In other lands, the classical age has been jettisoned along with the gods and goddesses. But in India the flute calls still. It is indeed a unique culture that we come across in India. Why unique? How is it different from other cultures of the world? Sri Aurobindo was asked this question long ago. Nearly one hundred years ago he wrote a series of articles which were published as *Foundations of Indian Culture*. There he discussed in detail the unique nature of the Indian culture which, unlike the materialist West, always tends towards the spiritual.

“India’s central conception is that of the

China has a thuggish and corrupt authoritarian regime...Authoritarianism is all powerful yet brittle, while democracy is pathetic but resilient.

Stephen Kotkin

Eternal, the Spirit here incased in matter, involved and immanent in it and evolving on the material plane by rebirth of the individual p the scale of being till in mental man it enters the world of ideas and realm of conscious morality, dharma. This achievement, this victory over unconscious matter develops its lines, enlarges its scope, elevates its levels until the increasing manifestation of the sattwic or spiritual portion of the vehicle of mind enables the individual mental being in man to identify himself with the pure spiritual consciousness beyond Mind.”

Nor is this mere imagination. The solid literary evidence (apart from epigraphic evidence which goes back by two thousand years) on which Sri Aurobindo’s view of Indian culture is based is there for all of us to see and understand. It really begins with the Vedas whose time has not been determined. Suffice it to say they are more than five thousand years old but have not been banned to the archival depot. The Vedas continue to be recited with the same tonal variations as they were centuries ago. Such has been the disciplined guarding of a living heritage, unparalleled in any other culture. Thousands of years ago, the Indian bridegroom held the hand of his bride and entered his home with the words:

“I am this, thou art she;
I am song, thou art verse;
I am Heaven, thou art Earth;
We two together shall live here,
Becoming parents of children.”

He does the same even today, when the wedding is performed according to Vedic rites: *amohamasmi saa thvam saamaahamasmi rik thvam dhauraham prithvi thvam...* But we are busy with receptions and gifts, feeding wedding guests en masse, and have no time to check whether the priest explains the meaning of such verses to the bridal couple.

The survival of the Vedic age is also due to the strength of Vedic Sanskrit. According to Sri Aurobindo, the rhythms of the Vedic poets “are carved like chariots of the gods and borne on divine and ample wings of sound.”

Even as the Vedas celebrate life and take care

of the externalities of life, the internal worlds, the world of man, nature and god, the Upanishadic Age that came after scaled the very heights of intellectual argument and spiritual illumination. The global view of the Upanishads is amazing. “All this creation is shot through with the Divine” avers the Isa Upanishad. Indeed, these works have given some of the choicest inspirational lines one of which became the flag-bearer of Swami Vivekananda: “Arise, awake and stop not till the goal is reached.”

The times when the Upanishads came to be written saw a forward movement without losing contact with the origins which lay in the Vedas. The movement itself was marked by an intense exploration about man’s place in creation. As Sri Aurobindo says:

“The time in which the Vedantic truth was wholly seen and the Upanishads took shape, was, as we can discern from such records as the *Chandogya* and *Brihadaranyaka*, an epoch of immense and strenuous seeking, an intense and ardent seed-time of the Spirit. In the stress of that seeking the truths held by the initiates but kept back from ordinary men broke their barriers, swept through the higher mind of the nation and fertilized the soil of Indian culture for a constant and ever increasing growth of spiritual consciousness and spiritual experience.”

For two millennia and more, the paths opened up by Vedanta resulted in an unprecedented flowering of religion and spirituality, literature, art, architecture, polity and the sciences. Through all this, the Vedantic ideal of spiritual realisation was never lost sight of and in the realm of philosophy we had the three major systems – *Advaita*, *Visishtadvaita* and *Dvaita* – grow up into many-branched trees helping man strive to become the Universal Man. Philosophies were very much part of the Puranic and Tantric Ages. India’s vast spaces had innumerable kingdoms often at war though they did achieve peaceful co-existence now and then. But these divisions spelt no danger for India’s religion and spirituality. They prospered and the great teachers of Vedanta like Adi Sankara, Sri Ramanuja and Sri Madhvacharya knit the land into a single entity. The Indian, to whatever region he belonged to, still spoke of Bharata Varsha and Bharata Kanda. Such was the triumph of Vedanta in

The mainstream of Pakistan’s public opinion is remarkably like India’s: deeply religious but very wary of basing politics on religion, and wedded to the ballot rather than the bullet.

Mani Shankar Aiyar

achieving the spiritual unity of India.

Unfortunately, foreign deprivations did indeed create problems. But the genius of India had opted for a life based on the concept of Dharma. This Dharma was ancient (Sanatana). It was never exclusive. The Upanishadic seer who spoke of the all-pervading Brahman would not distinguish between people belonging to different religions. Thus the all-inclusive Sanatana Dharma found no problem in accommodating foreign religions like Islam and Christianity (though they belonged to the invaders. The Sanatana Dharma easily gave refuge to persecuted people like the Jews and the Parsis. This was due to the Vedantic concept of *Ekam Sat*.

But then, shadows had fallen on the Vedantic spirit of India because of the English-educated Indian of the 19th century. There was indeed a time in the nineteenth century when the love of everything from the west ruled the mind and home of the English-educated Indian. Analyzing the situation in his book *The Case for India* (1930), Will Durant said: "The East is drunk with the wine of the West, with the lust for liberty, luxury and power."

Fortunately, the innate strength and resilience of India's Sanatana Dharma that has upheld the Vedantic ideal of *Ekam Sat* stood the test well. English education itself became a powerful weapon for the intellectual to probe his own past and get to know the world outside. With Raja Rammohun Roy founding the Brahmo Samaj, and with Ramakrishna Paramahansa discovering Swami Vivekananda, the next future was unfolded. A neo-Vedantic approach was in the offing with eminent personalities like Debendranath Tagore giving deep thought to the problem of Vedantic enquiry and idol worship. Keshub Chunder Sen experimented endlessly, in his search for a universal dispensation. Of this time one could say: "Ganga was sunken, and the limp leaves
Waited for rain, while the black clouds
Gathered far distant, over Himavant.
The jungle crouched, humped, in silence."

(T.S.Eliot, *The Waste Land*)

Then came 1893. At the Parliament of Religions, Swami Vivekananda went up the rostrum in Chicago,

and began: "Sisters and Brothers of America ..." The Age of Neo-Vedanta had begun.

Vedanta which had become increasingly confined to the *guru paramparas* had now begun a new quest. Without jettisoning the spirit of Vedanta, the twentieth-century Vedantins could see what seemed New to be present in the Old and find the Old enclaspd with the New vision. Swami Vivekananda set the pace for these new scholars. Traditional scholars, even today, do not go beyond the fixed framework handed over to them. But the Neo-Vedantins could do so. They saw that the time had come for tapping the creative sources in Vedanta for giving a new lead to Indians. Since India itself was no more an isolated area in the Global Village, India's gains would help the whole world as well. For a century, the message of the Neo-Vedantins has prospered. Once again, the attempt to integrate the inner and outer worlds of man is gaining momentum as like the Upanishadic seers of old, they have sought to throw away what is valid no more. They have not rejected material life, but have sought to prove that in India the turn is always towards the spiritual.

Of the many who belong to this Age of Neo-Vedanta inaugurated by Swami Vivekananda, three names stand out: Sri Aurobindo, Ramana Maharishi and Sri Narayana Guru. None of them has rejected tradition and they have all been Vedantins cast in the Upanishadic mould. But their Vedanta has not been mere academics. With them, Vedanta is no re-statement but a powerful instrument for a renaissance, a re-flowering of the Indian spirit. They have set aside the casteist hurdles as the Upanishadic seers did before when Jabala's son Satyakama and the Shudra Janashruti and the cart-puller Raikwa could become teachers. Their approach has been an integrating factor for a world that has often been on the verge of a break-up due to seemingly inseparable inner divisions. Yet another generation of neo-vedantins like Swami Chinmayananda, Swami Dayananda, Guru Nitya Chaitanya Yati have given neo-Vedanta a global spread with light emanating from their Ashrams in India.

This adherence to a spiritual (Vedantic) outlook has kept the external life of India a rich tapestry of art, architecture, literature. It is a living culture, pulsating

The power of politicians to throttle free expression is facilitated by an anomaly in Indian law, whereby industrialists who have business interests in other spheres are allowed to run media organizations.

with a million throbs, old and new. Presided over by Mahasaraswati, there is constant creation and an enthusiastic drive towards facets of new creation, without losing the hold on the received heritage. Indeed, with its magnificent past guiding the present, Indian culture is now looking towards its Next Future which will be distinguished in every way and make the nation the Guru of the World.

* * *

MEDIA FREEDOM AND SOCIAL RESPONSIBILITY

Shri Ramaswami Sampath

Former Chief of Bureau *The Hindu* Visakhapatnam

“I have often wondered what exactly is meant by freedom of the Press? What is the Press? Is it the journalists, the proprietors or editors? Whose freedom? Obviously, the freedom of the Press may ultimately mean the freedom not of the people who run the paper but the freedom of the proprietor who may use that freedom for other purposes than public good. The more I have thought about it the more I have become convinced that there is no such thing as abstract freedom. Freedom is always accompanied by responsibility. Freedom always entails an obligation, whether it is a nation’s freedom or of a group or the freedom the Press. Therefore, whenever we consider the question of freedom we must also inevitably consider the responsibility that goes with freedom. It is in this integrated way that I would like you and others to think of the freedom of the Press.”

That was the expatiation of the concept of freedom of the Press by Free India’s first Prime Minister Jawaharlal Nehru while addressing the Delhi Press Club in 1950. Nehru’s anguish was obviously based on the way big business people who were not essentially journalists acquiring the existing newspapers soon after Independence.

The same view was expressed by Lord Roseberry, Prime Minister of England, towards the close of the century before the last. He remarked: “I believe in the power of the Press, but more in its responsibility.” The popular view also is more or less on the same lines. The Press, being the guardian angel of people’s

rights, should play that role effectively standing by the people by being the voice of the voiceless. Such a commitment is born of the social responsibility aspect of the Press. The journalist is respected because of his or her responsibility to society to which he or she belongs. In fact, it is an extension of the utilitarian principle of “maximum good for maximum people”, endorsed by the nineteenth century political philosophers Jeremy Bentham and John Stuart Mill.

While accepting the Nobel Prize for Literature in 1957, Albert Camus, novelist, essayist and journalist, remarked thus: “The nobility of our calling will always be rooted in two commitments difficult to observe: refusal to lie about what we know and resistance to oppression.” Camus’s view will be shared by the journalist fraternity because it is aware that the authority would not brook criticism and want the Press to toe the former’s line. Oppression starts that way. John Milton is celebrated as the pioneer of “unfettered freedom to publish” in his magnum opus, ‘Aereopagitica’. For this insolence, he was tortured in the notorious Tower of London. The famous Thomas Jefferson, as the first Secretary of State of the United States of America, was instrumental in incorporating ‘Freedom of the Press’ in the Bill of Rights in the First Amendment to the American constitution. He even went to the extent of saying, “Were it left to me to choose between government without newspapers and newspapers without government, I would not hesitate a moment to prefer the latter.” But after becoming the third President of the US, he was not amused by the way the American press dealt with his policies. “The man who reads nothing at all is better educated than the man who reads nothing but newspapers,” he once remarked derisively.

According to Walter Lippmann (1889-1974), the famous American writer, reporter and political commentator who is hailed as the ‘father of modern journalism’, the role of a journalist “is to act as a mediator or translator between the public and policy making elites. Thus the journalist plays the role of a middleman. When elites speak, journalists listen and record the information, distill it, and pass it on to the public for their consumption”.

Lippmann believed that the public would affect

Every ten or fifteen years since Independence, India’s reputation has swung from that of a land of great opportunity to that of a country with an uncertain future.

Bimal Jalan

the decision-making of the elite with their vote, but felt that “the public is not smart enough to understand complicated political issues. Furthermore, the public is too consumed with its daily life to care about complex public policy. Therefore, the public needs someone to interpret the decisions or concerns of the elite to make the information plain and simple.” Thus he assigned the role of social responsibility to the Press.

One can understand the special nature of this profession from the above comments which emphasise that journalists should live up to the expectations of the common public. Bill Kovach and Tom Rosentiel, who jointly authored ‘The Elements of Journalism: What News people Should Know and Public Should Expect’, listed those elements thus: Journalism’s first obligation is to the truth, its first loyalty is to citizens, its essence is a discipline of verification, its practitioners must maintain an independence from those they cover, it must serve as an independent monitor of power, it must provide a forum for public criticism and compromise, it must strive to make the significant facts interesting and relevant, it must keep the news comprehensive and proportional, its practitioners must be allowed to exercise their personal conscience.

These pre-requisites for quality journalism are indeed Gandhian values, which the Mahatma used to emphasise at every available opportunity while editing his journals, ‘Indian Opinion’ (in South Africa), ‘Young India’ and ‘Harijan’. Gandhiji, an apostle of truth, swore by truth in every sense of the word. He was for telling the truth, unadulterated by frills of superfluity. He also asserted that journalists’ first loyalty should be to citizens. The Father of the Nation was dead set against publishing news items or articles without proper verification of facts, since facts were sacred all the time. He was a protagonist of the independence of journalists not only from those they cover for publishing the news about them but also an independent monitor of power – a public watchdog. He himself set an example for these two functions of a good journalist. By insisting on rousing certain desirable sentiments in the minds of the readers, Gandhiji emphasised the reports/articles should be

significant, interesting and relevant. He laid stress on comprehensive coverage or analysis of the issues covered by journalists, with a sense of proportion and without yielding to the temptation of sensationalising or exaggeration. He supported journalists who exercised their personal conscience when occasion demanded. In short, Gandhiji’s definition of an ideal journalist arises from the aforementioned elements of journalism. In addition, the Mahatma was emphatic in journalists giving expression to issues rather than their zest for making an impression on their readers, by so-called writing skills, which may lead to accuracy taking a back seat.

Kovach, who headed the Committee of Concerned Journalists – a media watchdog organization - during the early years of the current century, classified the discipline into four categories: Journalism of verification, of assertion, of affirmation and of interest groups. While the first category is the traditional mode that puts the highest value on accuracy and context, assertion is found in digital journalism which attaches highest value on immediacy and volume without extensive critical checking. Affirmation is to be found in political media which prefer to affirm existing beliefs of their audience more than verification – a marketing attitude of sorts. The fourth category, interest group, is usually funded by advocacy groups rather than by media institutions. “In all but the first category, journalistic objectivity is usually violated. Verified information in the media is diluted by competing information, making identification and selection of the ‘relevant’ an even more time-consuming process,” he averred. Verified information should thus be an article of faith with journalists who are expected to uphold truth telling.

Even journalists who care about the truth get things wrong sometimes. How is one to correct this aberration? As former Chairman of the Press Council of India Justice Markandey Katju would often ask “Who is to watch the watchdog?” To build public confidence, journalism must connect with its audience and make itself accountable for its mistakes. Journalists should embrace independent self-regulation as a way of strengthening the work they do. In doing so, journalists and traditional

If we don’t act now to safeguard our privacy, we could all become victims of identity theft.

media will put themselves in a position to provide leadership about what constitutes ethical freedom of expression. What is good for journalism is also good for the social media which uses the Internet liberally thanks to its easy and vast reach.

It should be noted here what Gandhiji had to say on control of the press, in one of his articles in the 'Indian Opinion': "The newspaper press is a great power, but just as an unchained torrent of water submerges whole countryside and devastates crops, even so an uncontrolled pen serves but to destroy. If the control is from without, it proves more poisonous than want of control. It can be profitable only when exercised from within." But according to B.G. Verghese, eminent editor, who wrote in a recent issue of 'Vidura', published by the Press Institute of India, "Self-regulation clearly has not worked and regulation by the state, now under consideration, has aroused a good deal of alarm. Attempts at controls and censorship must and will be resisted. But just as powerful high-speed cars are only safe given good brakes and traffic controls, today's immensely powerful media needs some measure of regulation to ensure matching responsibility". Reiterating the importance of media ethics, Verghese, in the same article, says, "If the body demands a healthy and varied diet, so does the mind. Bias, misinformation and disinformation can be as insidious and dangerous as food or drug adulteration. Standards and ethics are therefore vitally important in the media world which has graduated from being the Fourth Estate, alongside the Executive, Legislature and Judiciary, virtually to becoming the First Estate, sought and feared by all."

Though Gandhiji would often claim that he was not a journalist, he was shoulders above any ideal journalist one could come across. For the Mahatma, end does not justify means. Notwithstanding the nobility of the end, he would say, means to achieve that end should also be noble. From that point of view he would not have been enamoured by the so-called investigative journalism of these days which adopts dubious methods like sting operations. While Gandhiji would weigh every issue that he intended to project in his journals meticulously before they got into print, it cannot be said of the modern journalist

professing such an attitude. Restraint was the Mahatma's watchword and so he would not mind the delay in publishing a report/article until all the points therein were verified for accuracy. Unfortunately, the modern investigative journalist is in a hurry not only to beat the deadline of his paper but also score over rival publications. Naturally this leads to pitfalls in reporting and misjudgment, thereby causing damage to the subjects of those stories. More than anything else, what goes in print is believed by a vast majority of readers; hence, there is need for caution and restraint. Gandhian methodology revolved around these two factors.

Gandhiji looked like an ordinary man but wielded an extraordinary influence over the masses, by virtue of his dignified simplicity and 'Dharmic' power or moral strength. As a journalist he was a crusader and a role model for contemporary editors. He was fearless and ever ready to face the consequences of what he had penned down. Prevarication was anathema to him. Though he wrote a simple prose, its impact was tremendous. He wrote to express his viewpoints and never to impress the readers. At the time of his death, Gandhi was not a prime minister of a nation or a politician to fight for power. Yet, the top leaders, prime ministers and presidents of different nations mourned his death. American journalist Louis Fischer recorded thus: 'On 30 January 1948, when he died, Mahatma Gandhi was what he had always been; a private citizen without wealth, property, official post, academic distinction, scientific achievement or artistic gift. Yet men with governments and armies behind them paid homage to the little brown man of seventy-eight in a loin cloth. The Indian authorities received 2,441 messages of sympathy, all unsolicited and from foreign countries'. Such was that weak physical frame's moral strength.

The Gandhi benchmark is derived from Socrates's contempt for rumour mongering, Plato's stress on leading a life of virtue and Aristotle's conviction that the state should ensure supreme good of the people. The Mahatma felt that journalism, too, should enable people to lead a life of virtue and goad the state to promote supreme good of the people. The credibility of a journalist is sure to get enhanced

if he or she is guided by these noble principles.

* * *

India's Rotting Civil Services

Dr. Uday Balakrishnan

Indian Postal Service (Retd.) Former Member Postal Services Board and Chairman Investment Board

My brief stint as a journalist was in Accra in the early seventies under the late Chris Asher, the colourful editor of the *Daily Palaver*, an irreverent newspaper founded by an upstart journalist who later went on to suffer imprisonment and humiliation for the boldness with which he took on successive venal regimes that ran his country. We often discussed bureaucratic corruption – so much of it was all around us- and its debilitating impact on economic growth, standing in the way of a good life for its citizens.

It was from Chris I first heard of the 70: 30 rule i.e. the outer limit for a country to progress at least 30 % of its civil servants had to be incorruptibly honest. Anything less than that would be disastrous he'd exclaim adding, "look at the mess Nigeria is in" all because the 70-30 rule was breached with no more than 20 %(an optimistic estimate) of its bureaucracy honest while a whopping 80 % (or even more) was on the take. Those ratios stuck in my mind.

When I joined the civil services as an officer of the Indian Postal Service in 1975, I was pleasantly surprised to note that the postal services was at least 80 % honest and no more than 20% was in varying degrees, dishonest and even within the 20% a mere 1% or less corrupt. This ratio varied. A 'healthy' 60: 40 rule could, I hazarded, be applicable across all civil services. In the postal services, more than in most, keeping the system clean was an obsession. Minor misdemeanors attracted savage punishment, frequently resulting in dismissal from service.

Everyone accepted that the police and the tax systems were traditionally corrupt all the way up, with the mildly dishonest taken to be sparkling examples of honesty. Over the years, I noticed (always unconsciously applying the 70:30 rule) an inexorable decline in the honest elements in the civil services

including my own, with a former senior colleague being arraigned by the CBI.

When I went on deputation to a major central ministry combining several duties including being its chief vigilance officer, I was aghast at the kind of rampant mega corruption that prevailed with the takes going the way up to the top. It was during the nineties the noble intentions to help NGOs ended like rivers in a desert. The story of CAPART, explicitly set up to fund NGOs, is a case in point.

CAPART (Council for Advancement of People's Action and Rural Technology) has been mired in financial malfeasance running into hundreds of crores funding non-existent NGOs and non-existent projects. A major internal inquiry had brought out how thousands of files with details of financial disbursements had gone missing all of which added to several hundreds of crores.

The Medical Council of India mired in corruption, has compromised the health of the nation when an entire ministry exists to keep watch over it but never did. The case is the same with AICTE charged with keeping the standards of technical education in the country. Its head and several of its top officials charged with serious corruption had tried to brazen it out. The CBI arrested a former head of the Ordinance Factory Board in 2009 as also a member of the Railway Board. The infamous fodder scam has seen several top-level bureaucrats go to jail for facilitating a humongous fraud.

The examples are endless. There is the case of the infamous couple from the IAS in MP whose house was stuffed so full with currency that several counting machines had to work overtime to determine the kind of loot they hid in their house. These were senior officers in charge of implementing large government programmes meant to help the poor.

Their kind of malfeasance hurts all of us. Its common knowledge that to register a house a well-oiled system is in place across India to process bribes as well, shared by all, going to the top of the bureaucratic and political system. The so called facilitation charge that vehicle dealers charge their customers to register the

I am proud to belong to a religion which has taught the world both tolerance and universal acceptance. We believe not only in universal toleration but we accept all religions as true.

Swami Vivekananda 17

cars and trucks and scooters and auto rickshaws they buy, is a thin cover for the bribes that have to be paid to see the registration process through.

The cover up of arms scandals is well known with admirals, air marshals and generals as well as senior officers of the civil services involved but always deftly avoiding prosecution. The latest dogfight over the Rafale fighter is in all likelihood being waged between aircraft companies by their proxies in the defence establishment seeking to land multibillion dollar deals by selectively leaking information about their rivals that arrests the conclusion of a contract.

I for one would argue that the rampant corruption in India has been facilitated by the very elements charged with ensuring the integrity of processes that would have ensured good roads, great trains, the finest of armaments and poverty alleviation schemes – e.g. MGNREGA- that would have really delivered but never did.

India's top level civil servants – cutting across all services not just the IAS- are a compromised and rotten lot doing the best by themselves and their political masters and the worst by the citizens they are expected to serve. The 70: 30 rule has long ago been breached and in all likelihood stands at a still optimistic 85:15, with a helpless “can-do-nothing to stop the rot,” helplessly looking on.

(Views are personal)

APPOINTMENT OF GOVERNOR WAYS TO STRENGTHEN THE INSTITUTION

Prof. S. Sumitra
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The Governor is a Constitutional functionary meant to uphold the constitutional values in the country - one who would be above narrow politics and plays a pivotal role in establishing and maintaining harmonious relations between the Centre and the state concerned. Role of Governors is but an integral part of cooperative federalism - Centre State relations in particular. The Governor is perceived as a conduit

between the Centre and States and the principle of agency does not really fit in.

Initially conceived as an agent of the Crown in 1858 in Government of India Act, the Governor became pivotal in Provincial Administration in later years. Under the Government of India Act 1935 which introduced provincial autonomy, the Governor was required to act on the advice of Ministers responsible to the legislature. The Act placed certain special responsibilities on the Governor. The Governor also enjoyed certain discretionary powers albeit under the supervision of the Governor General. In 1937, when the Government of India Act, 1935 came into force, the Congress Party which commanded a majority in six provincial legislatures, agreed to assume office in these Provinces only after it received an assurance from the Viceroy that the Governors would not provoke a conflict with the elected Government.

With regard to the Governor, two things assumed importance in the deliberations in the Constituent Assembly - whether it should be an elected Governor or a nominated Governor and the second question related to the discretionary powers of the Governor. As far as the question of election or appointment is concerned, protagonists of a strong Centre favoured an appointed Governor. However, apprehensions were expressed that an elected Governor could become another centre of power and thus a source of tension. It was recognised that the co-existence of an elected Governor and a Chief Minister responsible to the Legislature might lead to friction and consequent weakness in administration. The concept of an elected Governor was therefore given up in favour of a nominated Governor.

Consequently, the ‘elected Governor’ became ‘appointed’. The Governor lost the security of tenure that became subject to ‘the pleasure of the President’, although notionally appointed for 5 year. The dilution in the independent position of Governor was opposed by the federalists who apprehended that the centre would misuse the weak position of Governor. The constitution-makers were sanguine of the development of healthy conventions with regard to the selection and removal of Governor, notwithstanding the provision in the constitution,

It is only the fair press that can really call itself a free press.

Fali. S Nariman

and, in fact, a few of them sprouted in the early years of the commencement of the constitution.

Emphasising on this, Jawaharlal Nehru, the first prime minister of India, had talked of three conventions in this regard which were: (i) the appointment of the Governor only on merit, (ii) in consultation with the chief minister of the state concerned and (iii) appointment of the person only from outside the state. Governors too helped in the development of healthy conventions. In the early years, some of them used to share the contents of the Governor's fortnightly report to the president with the state governments.

However, Dr. Ambedkar envisaged Governor as a ceremonial head with hardly any functions and, therefore, to him this debate over the issue of selection or election of Governor was of no consequence. Instead of elaborating on the qualifications of Governor, members were of the view that persons of high standing and eminence in some walks of life not soiled by party politics would be appointed to this high constitutional position. In the initial years, generally persons of high calibre were appointed as Governors who, in turn, adhered to high constitutional propriety expected of them. The roles of such Governors have generally remained uncontroversial.

The position of the Governor remained generally non controversial owing essentially to another reason. It was argued that centre-state relations remained harmonious primarily because of the single party rule at the centre and in states and stature of the chief ministers also influenced the position and role of Governors in the initial years.

However in 1967, when non congress governments came to power in 7 states, resulting in coalitions, the scope of the use of various discretionary powers by the Governors increased and so the space for the union government to meddle in the affairs of the states. True, the preference for pliable Governors who would be willing to oblige the union government and the ruling party at the centre increased. Persons with avowed loyalty to the ruling party at the centre became preferable over persons of high calibre. The pragmatic politics crushed nascent conventions

that were in making and belied the intents of the constitution-makers.

All political parties have always defined the role of the governor according to their political interests. It is commented that ruling parties have flippantly ignored the constitutional conscience and persons loyal to ruling party alone were appointed as Governors.

The independence and objectivity of the Governor would, to a great extent depend on the persons appointed to the position. The trend in the selection of Governors predominantly from politicians and civil servants has been found across the states. An insignificant percentage of them are from defence personnel, judges, advocates and academicians. (Research reveals that out of the total Governors appointed between 1950 and April 2015, 52.3 per cent were politicians; 25.6 per cent were civil servants; 9.0 per cent were judges and advocates; 6.3 per cent were defence officers; 3.9 per cent were academicians and 2.9 per cent were others including former heads of princely states (Rajas and Maharajas) and freedom fighters. Out of the total, 12.9 per cent were former chief ministers and 14.5 per cent were former ministers either at the centre or in the states. About one-fifth of the total (19.4 per cent) were former MPs and MLAs. Trade union leaders and others—some of them later on became presidents and vice presidents of India—constituted 5.5 per cent of the total incumbent Governors. A survey conducted by the Sarkaria Commission of the appointments of Governors made since Independence till October 1984 showed that over 60 per cent of the Governors had taken active part in politics, many of them immediately prior to their appointment. Persons who were eminent in some walk of life constituted less than 50 per cent. This percentage showed a steep fall when the figures for the period from 1980 onwards are compared with those for Nehru period)

Most disturbing is the appointment of persons active in politics. Understandably in such cases, the Governor's position will be weak as obviously the loyalties would be to the Centre that appoints him/her.

Police rightly watch citizens to keep them safe. Citizens must watch the police to remain free.

The Economist, June 2, 2018.

As observed by the Sarkaria Commission, the burden of the complaints against the behaviour of Governors, in general, is that they are unable to shed their political inclinations, predilections and prejudices while dealing with different political parties within the State. As a result, sometimes the decisions they take in their discretion appear as partisan and intended to promote the interests of the ruling party in the Union Government, particularly if the Governor was earlier in active politics or intends to enter politics at the end of his term. Such a behaviour, it is said, tends to impair the system of Parliamentary democracy, detracts from the autonomy of the States, and generates strain in Union-State relations.

In order to strengthen the Institution of the Governor, the Sarkaria Commission has made some recommendations. "We recommend that a person to be appointed as a Governor should satisfy the following criteria:— (i) He should be eminent in some walk of life. (ii) He should be a person from outside the State. (iii) He should be a detached figure and not too intimately connected with the local politics of the State; and (iv) He should be a person who has not taken too great a part in politics generally and particularly in the recent past. In selecting a Governor in accordance with the above criteria, persons belonging to the minority groups should continue to be given a chance as hitherto."

It further recommended that a person from the ruling party at the centre should not be appointed as the Governor of the state ruled by another party. Moreover, the effective consultation with the chief minister of the state concerned should be followed. It also favoured consultation with the vice president of India and the Speaker of the Lok Sabha. The NCRWC has reiterated the recommendations of the Sarkaria Commission in this regard.

The Supreme Court in *Rameshwar Prasad and Others vs. Union of India and Others* (2006) (Bihar Assembly dissolution case) has observed: 'It has become imperative and necessary that right persons are chosen as Governors if the sanctity of the post as the head of the executive of a state is to be maintained' (SCC 2 2006, 240). The M. M. Punchhi Commission (2010) on Centre-State Relations too

has recommended on the same lines.

Another strong factor that influences the position and independence of the Governor is the security of tenure. The Constitution as it finally emerged, envisages that normally there shall be a Governor for each State (Article 153). The Governor is appointed by the President and holds office during his pleasure [Articles 155 & 156(1)] though appointed for a period of five years.

Sarkaria Commission has recommended: 'The Governor's tenure of office of five years in a State should not be disturbed except very rarely and that too, for some extremely compelling reasons'. It also suggested safeguards like in case of expediency to remove the Governor, he should be asked first to explain on the reasons for his removal and an advisory board consisting of the vice president of India and the Speaker of the Lok Sabha and a retired Chief Justice of the Supreme Court should examine his reply and advise on the same. Moreover, a retired Governor should not be eligible for any office of profit except for reappointment as a Governor or election for the Vice President and President of India. It also favoured suitable retirement benefits to the Governor. The constitution-makers had also intended to restrict the reappointment of Governors.

A constitutional amendment can be brought in to provide for the security of the tenure of the Governor. An impeachment procedure like the removal of a judge of a Supreme Court could be an option to check the arbitrary removal. A Governor with a hanging sword on his head cannot be an independent Governor, howsoever high is his calibre.

* * *

'Governor's discretionary powers wider than those of President'

"Office a vital link between Centre and State",
says expert

(Newspaper report on the panel discussion on 'The Role of Governor' on June 19, 2018 jointly organized by Centre for Policy Studies and Visakhapatnam Public Library)

The information revolution is likely to be even more disruptive than the Industrial Revolution was, and to make matters worse, it is unfolding in an unstable world awash in nuclear weapons.

Walter Russell Mead

At a time when Indian democracy is at the crossroads, the role of the governor is crucial for revitalising the nation's democratic culture to ensure stability and restore public confidence in government at both the State and national levels. Panelists taking part in the discussion on 'Role of Governors' jointly organised by Centre for Policy Studies and Visakhapatnam Public Library on Tuesday were unanimous in their view that the office of the governor is indispensable for Indian democracy.

"Mending it is better than ending it" was the consensus that emerged out of the two hours of panel discussion. Prof Y. Satyanarayana, Director of Gitam School of Law, expressed concern over cooperative federalism being replaced 'controversial federalism' adding that though the office of the governor was 'a complete failure' it has to be resurrected as recommended by Sarkaria Commission.

Prof S. Sumitra of Andhra University Law College explained how Article 356 has been misused with Indira Gandhi invoking it 51 times during her tenure. The conflict of interest between a strong Union government and stable State government can be resolved through judicious exercise of powers by the governor as he is a link between the Centre and the states. She revealed that 53 % of governors were politicians, 26% of civil servants and a mere 20% from the judiciary and other walks of public life.

Senior advocate Kuppili Muralidhar argued that when the governor's discretionary powers were wider than even those of the President in the affairs of the State he reigns, judicial scrutiny of the exercise of powers by the governors was important like what the apex court has been doing in some important cases. The office of the governor must be strengthened by choosing eminent non political persons.

Earlier, A. Prasanna Kumar, President of Centre for Policy Studies, in his introduction traced the evolution of the office against the backdrop of the 1935 Act and constitutional debates over the power of the governor.

D.S. Varma, Secretary of the Public Library, welcomed the gathering.

(Courtesy: *The Hindu*, June 20, 2018)

Book Review:

GOD SAVE THE HON'BLE SUPREME COURT

Fali S. Nariman

(Hay House Publishers India 2018 pp 304 Rs 599)

Fali S. Nariman's book has not arrived a day too soon. It is a welcome and timely publication on the Supreme Court of India which in recent times was in the news for wrong reasons. Only Nariman could write such a book on a sensitive subject with objectivity and profundity, laced, of course, with his wit and anecdote. Seldom involved in any controversy Nariman discusses controversial subjects judiciously without hurting anyone. Humility is his forte and humour his weapon to hold the reader glued to his book. The title is taken from the daily practice in the Supreme Court of the United States of America with the proclamation in a loud voice before the judges take their seats "God save the United States and this Hon'ble Court."

The first and the longest of the eleven Chapters titled 'Have the Best of Times Disappeared?' contains a sub-chapter with the title BUT, IT WAS ALSO 'THE WORST OF TIMES.....' focusing on two events the Justice Karnan case and the Public Expression of Grievances by four judges of the Supreme Court--Justices Chalameswar, Gogoi, Lokur and Joseph. The author compares the Supreme Court of America, called the 'Marble Temple,' with its counterpart, the Indian Supreme Court. He quotes Chief Justice Earl Warren of the U.S. Supreme Court who said : "Life on the Court is like a marriage; one cannot tolerate it if it is one-battle-after- another." Nariman says that though such a frequent-battle syndrome has not been witnessed in India so far, quarrels and ill-feelings between the judges of the Supreme Court of India are not infrequent. The words of Granville Austin are quoted: "The belief persists widely that the Bhagawati- Chandrachud confrontation derived primarily from the former's long-held 'grouse' against the latter's having been made a Supreme Court justice before him." Nariman explains how the Bhagawati-Chandrachud confrontation 'got

re-enacted' in India's Supreme Court on, at least, two subsequent occasions---in October 1994 when the appointment of Justice A.H. Ahmadi as the Chief Justice of the Supreme Court was 'not taken kindly' by Justice Kuldip Singh. The second and more recent was the elevation of Dipak Misra as the Chief Justice of the Supreme Court which was 'not taken kindly by Justice Chalmeswar.'

THE CITADEL NEVER FALLS Except From Within is the title of the small second chapter that begins with a reference to Justice Chalmeswar, 'an otherwise excellent and sober judge going public over the lack of transparency in the working of the collegium system.' Chalmeswar's charge was that the first four members of the collegium T.S. Thakur, A.R. Dave, J.S. Kehar and Dipak Misra 'were not unduly concerned about transparency.' Nariman makes an incisive analysis of the 'First and Second Supercessions' effected by Prime Minister Indira Gandhi in the appointment of the Chief Justice of India---- first when Justice A. N.Ray became

Chief Justice of Supreme Court superceding three seniormost justices and the second when Justice M.H. Beg was elevated as Chief Justice ignoring the seniority of Justice H. R. Khanna who resigned 'in a blaze of glory.' Nariman suggests with utmost humility "not just to the first five members of the apex court but to the last five as well and to the rest in between:" *"Please do remember, that the citadel never falls except from within."* The third Chapter "begins with some bad news. Practising lawyers and Members of Parliament have one thing in common- not only in India but all around the world---they are held in low public esteem. There is a close race today as to which is lower in public esteem---the lawyer or the law giver!" Nariman regrets that for both "ethics in politics or in the law is at a low ebb." As a member of Rajya Sabha Nariman watched the proceedings of both the houses with great anguish and disappointment. Most of the 'honourable members' of Parliament hardly displayed either discipline or dedication to duty and the upright Nariman was understandably distressed at the plight of the presiding officer in discharging his/her duties. He offers 'the unsolicited but most respectful advice' to the chair in each of the Houses of Parliament to

stick to their seats whatever the disturbance or provocation. He appeals to all MPs in both Houses of Parliament representing more than one billion people outside and ,so, occupy the highest positions both of power and privilege---and a position of responsibility as well to live upto the expectations of the people of India. In September 2004 Nariman as Member of Rajya Sabha introduced a private member's Bill "No work no pay." He retired in 2005 and the Bill lapsed. "Is there any ethics left in politics?" is theme of the chapter in which he raises the question: Can there ever be ethics in politics? and answers that 'perhaps there can---but never in party politics.' Nariman, however, holds in high esteem such parliamentarians as Hiren Mukherjee, Atal Bihari Vajpayee, L.K. Advani and Somnath Chatterjee.

The role of the judges is alluded to in the chapter that follows and Nariman refers to Prime Minister Manmohan Singh's comment on 'judicial overreach' which In Nariman's opinion "has been the direct result of legislative and executive neglect or under reach." It is "judicial activism at its best---the courts standing between the government and the governed!" the author sums up. Writing on advocacy Nariman cites famous cases highlighting the role of some eminent lawyers and judges. He quotes from Justice H.R. Khanna's memoirs that in Kesavananda case "the heights of eloquence to which Palikhivala had risen has seldom been equalled and never been surpassed in the history of the Supreme Court." The doctrine of judicial review, writes Nariman, had introduced the doctrine of basic structure of the Constitution.

In the chapter on Freedom of Expression Nariman quotes from the 'grand editorial' in the *London Times* which says that "Only a fair press will retain the public confidence that is needed by a free press." Nariman, the master of anecdote and wit, recalls how a Malaysian delegate in the Commonwealth law Conference in Kuala Lumpur in 1999 declared in the presence of Malaysian Prime Minister Mahathir Mohamad: "Our written constitution guarantees freedom of speech. But no freedom after speech!" Nariman asserts that a vigilant media is the handmaiden of effective judicial administration.

It is true that on some occasions, courts have overstepped their limits. But, by and large, judicial activism has done a great service to society.

Justice B.P.Jeevan Reddy

The chapter titled Minorities at the Cross-Roads is a particularly relevant and significant contribution to the public discourse on the fears and anxieties of the minority communities in India. Nariman refers to the constitutional safeguards stating that “ affirmative action for protection and preservation- as the only way- because at the time of the framing of the Constitution and for many year after that, this was the Hindu ethos i.e. the true Indian ethos.” The setting up of National Commission for Minorities and the role expected to be played by it in protecting the interests of the minorities come in for sharp comment; “To be honest,” writes Nariman, “ the body set up by the Parliament to protect the minorities has omitted to take effective steps to protect them.” A Constitution is a living instrument of governance observes Nariman concluding that “ All we can do is pray that God give wisdom to our judges in determining the rights of minorities with reference to the freedom of religion.” The Hindu society, he writes, is known for its tolerance and it is unfortunate that a few fanatic seek to divide society by their actions The few fanatics- the fanatic fringe – would tear apart the fabric of our society laments Nariman.

The chapter on V.R. Krishna Iyer, the Super Judge, is a superb exposition of judicial independence, integrity and innovativeness. Nariman is at his best in portraying the robust spirit of Krishna Iyer, comparing him with the celebrated Lord Denning.

Referring to Krishna Iyer’s famous quip that “our whole judicial approach has a certain independence from all civilized behavior... “Nariman says that only Krishna Iyer could say this and only a Krishna Iyer could have been exonerated, as he later was!” “If ever innovative judgments are permitted to be patented, Lord Denning and England and Justice Krishna Iyer in India would be the judges holding the largest number of such patents,” says the author. An indignant Krishna Iyer declared that “there was transparent discrimination against women in the IFS rules and described the attitude of male bureaucrats as “diehard allergy to gender parity.” Another memorable Krishna Iyerism! The book ends with a moving tribute to late R.N. Trivedi, “ A fine Lawyer and a Great friend.”

Fali S. Nariman deserves to be saluted for writing this fascinating treatise on India’s supreme court, its judges and lawyers with a wealth of quotations and scintillating humour. His moving message given at the beginning, in the introduction, bears testimony to the luminous intellect and endearing humility of this legendary legal luminary.

Howsoever old you be, or howsoever old you get, may you always have the vigour and the enthusiasm of youth, to appreciate the enormity and magnificence of the LAW, and the will to unravel the mysteries and the mistakes of the LAW ! Fali S. Nariman

A.Prasanna Kumar

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