

Elections in Pakistan

Adam Adil

FOR the first time since Pakistan came into being the country has had elections on the basis of adult franchise. This does not mean that Pakistan has finally and irrevocably adopted the democratic way of life or that democracy has come to stay in the country. It is true, by and large, the recent general elections in Pakistan have been free. People had the opportunity to vote according to their will and conviction. Yet it cannot be presumed that Pakistan has become a democracy like India.

It will be too early to hazard a guess, from the election results, about the shape of things that is likely to emerge in Pakistan. Yet it will not be out of place to make certain presumptions.

It will be recalled that two forces were mainly responsible for the ouster of President Ayub Khan in March last year. One was Bengali nationalism, which demanded complete autonomy for East Pakistan and almost became chauvinistic in its hatred toward West Pakistan. The other was radical postures that emerged under the hysterical leadership of Zulfikar Ali Bhutto in West Pakistan — postures which were anti-West in general and anti-Indian in particular and had socialistic overtones.

The present elections show that both these forces have triumphed in the respective wings of Pakistan.

Now the question is not whether Pakistan will survive as a democracy but whether it will survive as one entity at all.

The ills of Pakistan are not a sudden development. They have a history of at least twenty years. After the death of Mr. M. A. Jinnah, who was the founder, the first Governor-General, and later first President of Pakistan, or to be more precise after the assassination of the first Prime Minister, Mr. Liaqat Ali Khan, Pakistan passed into the hands of irresponsible and unscrupulous politicians, most of whom were corrupt to the core. The politicians quarrelled amongst themselves and exploited the people to the utmost. They fed the people with hatred for India, which, of course, continued even during the subsequent regimes. The

economy of Pakistan was ruined, surplus areas became deficit ones and inflation became the order of the day. Corruption became so rampant that even administration became affected. It is said nothing moved in the government offices unless the officers were bribed, and bribery rates were exorbitant. Even Ministers accepted bribes openly.

The people of Pakistan were fed up with this kind of regime. And this resulted in the emergence of Askander Mirza as the President of Pakistan with the help of the army. For a time things improved, but soon the country relapsed into its old habits, until Ayub took over. Ayub's regime had a desirable effect; corruption and bribery instantly ceased. The efficiency of administration was improved. Economy of the country was placed on sound foundation. Not only was inflation curbed but prices were stabilised. Increasing incentive was given for more production. Industrial activity got impetus. In spite of all these improvements, Ayub regime suffered from one serious defect: it is this that it did not improve its relations with India. In fact, hate India campaign, particularly with Bhutto as Foreign Minister, assumed new proportions, which ultimately resulted into disastrous aggression against India in September 1965. Pakistan suffered grievous defeat at the hands of the Indian army and Pakistan's ills began all over again. Corruption, nepotism, inflation, once again became the order of the day. It was widely rumoured that Ayub's son, Gowhar Ayub, minted money by foul and unfair means. The economy of Pakistan was once again on the way to ruin. In foreign affairs Pakistan found a new ally, China, which alienated it from its old Western allies.

Soon after the Indo-Pakistan conflict, reaction against the Ayub regime set in. Bhutto resigned as Foreign Minister, and started a campaign against Ayub.

It will be thus clear that no regime in Pakistan (except Ayub's for a brief period) was popular with the people. Pakistanis were disgusted firstly with the corrupt politicians, secondly with the military regime and thirdly with the bureaucratic control. They ardently desired change.

The recent elections provided the people of Pakistan with an opportunity to bring about the change they desired. But the change that has emerged does not portend political peace or economic wellbeing. Two nationalisms: one of West Pakistan and the other of the East are bound to come into bitter conflict. Bhutto, whose party gained majority in West Pakistan is the

firm advocate of a strong centre; he does not mind building up the prosperity of West Pakistan at the cost of the East. Shaikh Mujibur Rehman, whose party has swept polls in the Eastern wing wants complete autonomy for his part of the country, leaving only foreign affairs and defence to the Central Government based in Islamabad, in West Pakistan. Further Mujib would not allow the economic exploitation of the rich resources of East Pakistan for the enrichment of the Western wing. It is, thus, clear that the positions of Zulfikar Bhutto in West Pakistan and Mujibur Rehman in the East are irreconcilable.

If the leadership of West Pakistan had passed into the hands of G. M. Sayed, Mian Mumtaz Daulatana or Khan Wali Khan, they would have tried to bring about a reconciliation between the Western and Eastern wings of Pakistan. But with Bhutto in power in West Pakistan, such a reconciliation with East Pakistan is almost impossible.

It is true that Bhutto talks about equality between the two wings of Pakistan, but such talk on his part does not appeal to Shaikh Mujibur Rehman and his followers. Firstly, because Bengali Pakistanis outnumber all West Pakistanis combined together. Secondly, East Pakistan is richer than West Pakistan in natural resources. It is East Pakistan which earns a major share of foreign exchange for Pakistan. In fact, East Pakistani jute is the main source of foreign exchange. Thirdly, East Pakistan is neglected by the Central Government which has a strong pro-West Pakistan bias. No effort is being made to build the economy of East Pakistan; on the contrary, major

part of foreign exchange as well as foreign investment on the development of West Pakistan. The armed forces of Pakistan are mainly drawn from West Pakistan, the percentage of Bengalis in the armed forces is negligible. Therefore, the military rule has strengthened the rule of West Pakistan over East Pakistan. East Pakistanis, therefore, suffered from political and economic complex and regarded themselves as if they were the colony of West Pakistan.

It is natural, therefore, that a strong movement for independence from West Pakistan emerged in the Eastern wing. Although, this movement is liable to be crushed as inspired by Indian agents, it has gained momentum. It is now partly reflected in the victory of Shaikh Mujibur Rehman's party.

So far as West Pakistan is concerned Bhutto's victory has achieved one thing; it has driven into background such local chauvinistic regional movements as had found roots in Sindh, Punjab and North West Frontier Province. It has also given a big jolt to the Pakhtoon movement.

The elections in Pakistan have sowed the seeds of disunity between the two wings rather than unity. One, therefore, does not feel confident that Bhutto and Mujib would agree on a Constitution which they are required to draft within hundred and twenty days. In all likelihood it appears that Yahya Khan's would be the last word, and military rule would continue at least for a few months to come. If democracy is finally established in Pakistan, only a miracle can save the unity of the country.

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Ultra Vires

A. G. Mulgaokar

THE judgement delivered by the Supreme Court in the matter of the princes' privy purses has drawn considerable interest in this country and elsewhere. But, apart from the interest, the case held for many people an importance of its own. The importance, as a matter of fact, does not lie so much in the fact that any new point of law was laid down, but that some old ones were re-emphasised. During the arguments before the Court rights were claimed and immunities demanded on behalf of the Government reminiscent of the days of the Stuarts and the Bourbons. It is as well that these matters were raised so that at least for the time being we know that the Supreme Court Judges have totally rejected them. Above all the Supreme Court has laid down by this judgement one great principle which in the circumstances evidently needed to be emphatically laid down. It was, that there was no person or authority in the country which is above the law and that the Government, like all citizens of the country, is subject to the Rule of Law. The other matter which the Supreme Court laid at rest was the claim of paramountcy made by the Attorney-General on behalf of the Government. As the Chief Justice observed, in view of the integration of States and the provisions of the Constitution in Articles 291, 362 and 366(22), there is no paramountcy left at all, if paramountcy could be exercised against citizens. Therefore, the President cannot claim a total immunity for his acts from the scrutiny of the court.

As the Chief Justice points out, there are no sovereign or political powers under the Constitution and therefore every action of the executive limb of Government must seek justification in some law. Article 363 is supposed to be presuppositional of some kind of paramountcy or act of State. But the Chief Justice says

that in fact its very existence negatives such a claim and that it shows that there is no political power outside the law as otherwise an additional bar would hardly have been necessary.

It is worthwhile considering here what paramountcy amounts to and what the implications of an act of State are. Paramountcy was the sum total of power which the British claimed in respect of the Indian States. Under it any act of theirs which could not be supported either by virtue of the engagements entered into with the States or by ordinary law was claimed to be justified by virtue of their paramountcy, meaning the rights enjoyed by them as paramount power. Obviously, this kind of power or authority lapsed with the British and it was specifically understood that neither of the two successive governments inherited that power. Nearly twenty-five years later after the lapse of paramountcy for any claims to be made to it by the present Government of India would seem to be fantastic. An act of State is nothing short of an extra-legal act on the part of a conquering power against the subjects of the country so conquered. It is an act of deprivation, never an act of indulgence or an agreement accepting mutual obligations. True enough, when the British departed, the Government of India which came into power could have marched into every one of the States and taken them over. That would have been a proper and legal act of State giving no cause for action and remedy. The leading case on this point is that of the *Rani of Tanjore* laying down principles of valid act of State. Once the claim of the Government of India to paramountcy and to an act of State was rejected then it was necessary for the Judges to consider whether Article 363 bars the jurisdiction of the Court in this matter. The Court decided that any dispute which arose out of an agreement, covenant, etc. was certainly barred. But the right to be paid a privy purse was not one which arose out of such agreement or covenant. It was in fact founded in the fundamental right of a citizen to property. And, as the Judges point out, Article 362 in terms lays down that in the exercise of the power of Parliament or of the Legislature of the State to make laws or in the exercise of the executive power of the Union or of a State, due regard shall be had to the guarantees or assurance given under such covenant or agreement as is referred to in Article 291 with respect of the personal rights (which includes the payment of privy purses), privileges and dignities of the rulers of an Indian State. Incidentally, Mr. Justice Hegde, whose judgement lacks nothing in forthrightness, holds not only that the order of the Government had contravened the funda-



"Back home, the awards are a little different".

Courtesy: Hindu

mental right to property in Article 31, but also the right to acquire, hold and dispose of property under Article 19(1)(f) of the Constitution. His comment on the contention of the Attorney-General that the Presidential order was made in exercise of the political powers of the State, that it is an incident of sovereignty, was: "There is nothing like a political power under our Constitution in the matter of relationship between the executive and the citizens. Our Constitution recognises only three powers, viz., the legislative power, the judicial power and the executive power. It does not recognise any other power." The Chief Justice also agreed with this. The effect of this part of the judgement is to lay down the principle that no claim on the part of government or any authority to exercise any right which has no basis in law will be sustained. In other words, no one is above the law and this is what is known as the Rule of Law. It is sad to think that a democratic government has to be told this and becomes resentful when told. True, the government works day and night unlike the Supreme Court which functions only during, what are known as the office hours, but when we notice the cost to our country both in terms of money and moral principles some of us stand aghast.

Article 366(22) caused a certain amount of argument and counter-argument between the bar and the bench. The main point of contention was that the words "for the time being" in reference to a ruler were, if the government contention was right, intended to give the President the power absolute and final to decide who was to be considered the ruler of a State, if at all. That at any moment the President might by an executive fiat derecognise a ruler, a group of rulers or the whole class of rulers. Ordinarily such a claim would be considered totally unacceptable; but that the government was forced to make this sort of claim shows how thoroughly ill-conceived its action was. If the term "for the time being" is considered as it properly should to mean "the ruler" at the moment then it becomes clear that the claim made by government has no basis at all. The majority of the judges held that "the power to recognise a ruler may be exercised in the case of first recognition only in favour of a person who has signed the covenant, and in favour of his successor having regard to the custom and law governing the State if the ruler dies, or becomes incapable of functioning or his recognition is withdrawn". Then they added: "Articles 291, 362 and Part VII of the Constitution were, when incorporated, intended to grant recognition to the solemn promises on the strength of which the former princes were invited by those at the helm of affairs to join the experiment for achieving for the millions their dream of securing a truly democratic form of government in a united independent India, and clauses (15) and (22) of Article 366 were intended to serve the purpose of

identifying the persons remaining in possession of the guarantees".

The majority of judges lay down in the following words the power of the Union and of the President, "The power and authority which the Union may exercise against its citizens spring from and are strictly circumscribed by the Constitution. The functions of the President of India stem from the Constitution, not from a concept of the British crown, identified or unidentified. What the Constitution does not authorise, the President cannot grant." On their own jurisdiction they have the following: "The President cannot lay down the extent of the court's jurisdiction. He is not made by the Constitution the arbiter of the extent of his authority nor of the validity of his acts. Action of the President is liable to be tested for its validity before the courts unless their jurisdiction is by express enactment or clear implication barred."

The court indicates in the following words how it interprets a statute: "The court will interpret a statute as far as possible, agreeable to justice and reason and that in case of two or more interpretations, one which is more reasonable and just will be adopted, for there is always a presumption against the law-maker intending justice and unreason. The court will avoid imputing to the legislature an intention to enact a provision which flouts notions of justice and fairplay, unless a contrary intention is manifest from words plain and unambiguous." This part of the judgement deals with and becomes necessary because a somewhat unusual claim was made on behalf of the government that the Constituent Assembly merely wanted to give some sort of an assurance to the rulers about the payment of privy purses to them in future so as to allay their apprehensions that they may not be paid privy purses in future but in reality, no legal right was created in favour of the rulers nor any binding obligations imposed on the Union of India. As Mr. Justice Hegde says, "it is difficult to understand the argument. It will be an uncharitable insinuation to make against the founding fathers that all that they wanted was to create an illusion in the minds of rulers while in reality giving them no guarantee as regards the future payment of the privy purses."

Trade Unions & Politics

BY V. B. KARNIK

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Rajaji - Ninety Two Years Young

S. R. Mohan Das

WHEN one sees universal seediness and decay intellectually all around us even among younger people, the vitality of Rajaji as he completes 92 years of age is truly amazing. Week after week, day after day, he continues to involve himself actively in contemporary political developments and provide intelligent and rational guidelines to everyone who cares to hear or read about his views. In addition to this, he keeps up with his religious, cultural and philosophical essays.

All this has been possible as a consequence of a factor which is becoming so rare in our society, namely, intensive self-discipline. Notwithstanding a number of physical handicaps from which he has been suffering for years including a very poor eyesight, Rajaji has mastered these through as much disciplining of himself as he nostalgically wishes would develop amongst the people of this country whom he loves so much.

Many critics have seen in him a lot of what they accused of as opportunism, a "foxiness", but in the ephemeral character of developments in India during the hectic days of struggle for self-government and the post independence period, even God could get accused of similar opportunism. There has been a constant running thread of value norms in whatever Rajaji has been saying, writing or doing all these years which could be seen as constant, but which may have been difficult of realisation operationally.

My own direct experience of his discipline was when he gave me an appointment for interviewing him as a journalist immediately on his becoming the Chief Minister of Madras at a time of grave crisis. Whole of South India was parched through a seven-year drought. Politically and administratively the State was in chaos. Rajaji provided leadership in unique ways. As Chief Minister of a State Government, after holding the highest office of Governor-Generalship, he was not bothered about considerations of status. A job was allotted to him and he tried to do it effectively. He gave me an appointment to meet him at the Secretariat at 8 a.m. This itself was news to me as a journalist who could have expected to be called at such an early hour at the residence, but not the office at the Secretariat. It was later that I found the true story of this timing. There was a lot of permissiveness in the Secretariat under which standards had fallen very low. Employees in the Secretariat would leisurely come in around 10.30 a.m., amble along listlessly around the corridors exchanging news and views of the day, MLAs would be cohorting around administrators and non-gazetted officials chasing files of interested clientele

and so on. Rajaji found that standards could not be generated by Chief Ministerial edicts alone. He realised that discipline and a feeling of involvement in work among the employees could not come about by orders or regimentation in any form. He might get conformity, but not performance.

He therefore did two things. By an order he stopped the MLAs from clustering around the Secretariat. This he could do through an order. In regard to Secretariat performance, however, he did not issue any formal orders, but started attending office from 8 a.m. himself. His coming to office at 8 a.m. meant his Personal Secretary and other personal staff being around at that time. This in turn unleashed a chain reaction throughout the Secretariat on the basis that if an elderly person could come to office at 8 a.m. and do gruelling work, others must follow suit. Within a period of one week, the whole Secretariat was humming with meaningful work. He also discouraged employees from staying longer hours than was necessary.

This constituted the element that is becoming almost totally eroded in Indian politics, viz. leadership without oppression. Supporters and opponents alike could see all the qualities of a leader in him.

It is a matter of gratification that men three generations after Rajaji could physically still witness this amazing man's continuing dynamism and leadership guidance. By this he has leapfrogged over the generation gap. May he be always as young as we find him in his ninety two years.

BOOKS RECEIVED

1. *India's Constitution and Politics*, A. G. Noorani. Jaico Publishing House, 125, M. Gandhi Road, Bombay 1. Price: Rs. 10/-.
2. *Aspects of India's Foreign Policy*, A. G. Noorani. Jaico Publishing House, 125, M. Gandhi Road, Bombay 1. Price: Rs. 10/-.
3. *The Demonstration in Pushkin Square*, Pavel Litvinov, Gambit, Incorporated, Massachusetts, U.S.A. Price: \$ 4.95.
4. *Vietnam is our World*, Max Nord, International Documentation and Information Centre, Van Stolkweg 10, The Hague, The Netherlands. Price: 18/6.
5. *Gandhi, India and the World*, Edited by Sibnarayan Ray, Nachiketa Publications Limited, 22, Naushir Bharucha Road, Bombay 7. Price: Rs. 50/-.

Revolt In Poland

V. B. Karnik

IT was a revolt that took place in the middle of December in the Polish port cities of Gdansk, Gdynia and Szczecin. It was started by workers agitated by a steep rise in prices of foodstuffs. It received immediate support from students and youths. It spread to other cities like Wroclaw, Poznan and Cracow. It might have culminated in a revolution if it had not been suppressed with brutal violence by the police and the army.

The revolt has already led to political changes. Wladyslaw Gomulka, who emerged from prison to be the leader of the Communist Party after the revolutionary outburst of 1956, had to resign. The Head of the State and the Prime Minister were also compelled to resign. Gomulka's place has been taken by Gierek who is known to be an efficient, but hard, administrator. He may for the time being follow a conciliatory policy. But, on the whole, hardliners who were opposed to the relatively more liberal policy of Gomulka have become stronger in the party and the Government. Very likely, therefore, the country may slide back into a stricter and more regimented economic and political pattern.

The increase in the prices of foodstuff and the freezing of wages, which acted as a fuse to light the fire of revolt, were undertaken in order to head off an economic crisis that was overtaking the country. Export of foodstuffs is the main means by which the country earns the foreign exchange that it needs for modernising its industry and agriculture. During the last couple of years there was a big fall in production owing to adverse climatic conditions. There was at the same time increase in internal consumption. The two together led to a shortfall in export and in foreign exchange earning. Prices of foodstuffs were raised in order to curb internal consumption and secure larger quantities for export. Workers resented the action and revolted against it.

The economic crisis is not, however, restricted only to the production of foodstuffs. It is a more general crisis affecting all sectors of economy. Industrial production has reached a stage where no advance is possible unless the methods both of production as well as management are modernised. Communist theory and practice are a great obstacle in the way of the twofold modernisation. The party apparatus finds it extremely difficult to allow industrial managers the authority and initiative that they need for the efficient running of industries as it is afraid that in that case it will lose its control over the economy. In the case of improving the skill of workers and increasing their emoluments also it has to face a dilemma. More skilled

and better paid workers demand more freedom and less control. If the demand is conceded, it strikes at the root of the communist monopoly of power. There has been the experience in all communist countries. To the communists, political power is far more important than economic progress; to maintain that power they are, perforce, required to turn their backs upon economic progress.

But things do not remain under their control. People's urge for freedom breaks through the tyrannical restraints imposed by communist rulers. That happened in the Poznan riots of 1956, which resulted in Gomulka's rise to power and a certain amount of liberalisation of the regime which, however, did not last long. That happened in the Hungarian people's revolt of the same year, a revolt so widespread and so effective that Russia had to send its army to crush it. It happened again in Czechoslovakia in 1968 and once again Russia had to intervene with a mighty force to defeat Dubcek's attempt "to give a human face to Communism". The present riots in the port cities of Poland are a manifestation of the same trend. They may be suppressed for the time being as the Hungarian revolution and the people's movement in Czechoslovakia were suppressed. But the urge for freedom will never die. It will assert and reassert itself whenever it gets an opportunity.

The riots in Poland are an outcome of a crisis which is inevitable in every communist country. There is an overgrowing contradiction between the aims and aspirations of the people and the requirements of a communist dictatorship. The crisis is growing even in Russia, the most developed of communist countries. If people were free, they would have solved the crisis by ridding themselves of the communist dictatorship which has imposed itself upon them. Until then they have to give expression to their deep discontent only through riots and revolts. Riots and revolts may be suppressed, but discontent in the minds of the people at economic privation and denial of participation in government can never be removed.

Ten Taj Mahals and twenty Khajurahos cannot assuage the shock and the shame one feels at the sights and smells on the way from Dum Dum to Chowringhee or Santa Cruz to Marine Drive.

It is a crime to stifle the freedom of citizens, even to the chant of slogans and the waving of flags. The thugs used kerchiefs and chanted "Jai Bhavani" as they strangled their victims.

M. A. Sreenivasan, Mysindia

Andrei Amalrik And Future Of Russia

Anatole Shub

(The following condensed from "Survey", a journal of Soviet and East European Studies, is a "personal comment" on Andrei Amalrik's notable publication "Will the USSR Survive Until 1984?" by Anatole Shub, a veteran journalist, keen student of Russian affairs and personal friend of Amalrik. Amalrik's publication was widely noticed all over the world. It was not allowed to be published in Russia and for publishing it abroad he has earned a long term in jail. Amalrik, a journalist, writer of plays, not published or staged, and author of "An Unwanted Journey to Siberia," has been in the bad books of the Russian Government for several years. In 1965 he was exiled to Siberia for two and a half years.)

IT is the great merit of Andrei Amalrik's *Will the Soviet Union Survive until 1984?* that it is free both of presumptions of goodwill on the part of the rulers and of sentimentality concerning the virtues and possibilities of the ruled. His analysis of the state of mind of Soviet workers and peasants is the most valuable part of his study, precisely because it is so uncompromisingly depressing, so free of populist illusions about the special sanctity of the Russian *muzhik*. Amalrik is by no means the only Soviet intellectual who has arrived at a similar view — witness the portrait drawn of the Russian people in Tarkovski's film 'Andrei Rublev', which is less about the real Middle Ages than it is about the Soviet Union today. It is, of course, encouraging that such young men as Amalrik and Tarkovski have risen, clear-eyed, above the swamp.

The crucial question, of course, is how many such young men there are. To this question, a foreigner cannot even begin to approximate an answer, because of the limitations on human contact imposed by the Soviet police state-barriers formidable enough in Moscow and Leningrad, but insuperable in provincial cities which foreigners can visit only rarely and briefly, or not at all. Amalrik may be virtually unique, the 'least typical' Soviet citizen of Moscow, as one critic put it. On the other hand, who can pretend to know precisely what is going on in the minds of young scientists at Novosibirsk and Dubna, or of historians at Tomsk, or of naval officers at Kronstadt?

Even now, when Amalrik has become a world figure, many of the kindest, best-intentioned Western scholars find it incredible that he should have developed — independently — not merely an original mind but a remarkable grasp of the Western thinking about his country. Thus, in the otherwise excellent preface to the French edition of his essay, it is suggested that Amalrik must have learned what he knew about Western ideas on Russia, and Western modes of thought generally, through me — that I must have given him Western books, magazines, articles, etc. In fact, the only foreign language Amalrik reads is Ger-

man, and the only German books I saw on his shelves were East German art books.

Soviet citizens' knowledge of the outside world, too, has been incalculably broadened by the transistor radio making foreign broadcasts readily accessible. I recently heard about a Russian living in Kutaisi, of all places — who was not only totally familiar with the standard fare provided by the BBC and the Voice of America, but had become an expert on Japanese fashions and cuisine through Radio Tokyo.

Second, my experience with Andrei Amalrik taught me to marvel at the mysterious indomitability of the human spirit under even the most difficult conditions. I hope I shall never again underestimate the inherent moral intelligence of Russians, Chinese or any other prisoners of totalitarian systems. In Solzhenitsyn's *First Circle*, one of the characters is described as having known instinctively, as a young boy, that all the lies at the Moscow Trials were lies; he could tell it, feel it, simply by reading them in *Pravda*. Some Western readers expressed incredulity at this passage. But Solzhenitsyn was not being a *romancier*. He was stating simple truth — about himself in this case, but doubtless about many others, then and later. Andrei Amalrik was and is one of them. He used almost the same language as Solzhenitsyn's in describing to me his own boyish reactions to the post-war lies of Stalin and his successors.

Due to circumstances beyond his control, Amalrik's essay was completed under pressure and in some haste. He originally talked of writing a full-length book; and he had barely started it when the KGB searched his apartment on 7 May 1969 as part of a massive swoop-down on Russian democrats (e.g., former Major General Pyotr Grigorenko was arrested the same day in Tashkent). Because Amalrik would doubtless have preferred to write at greater length and leisure, I for one do not wish to parse his every sentence, place his every word under a microscope, in the manner of what long ago was called the New Criticism.

I agree with Amalrik that Russia's future will depend largely on how rapidly the new 'middle class' organizes

itself to take advantage of the historical opportunities which the defeats of a decrepit regime will doubtless present. I am somewhat less pessimistic than he is about the evolution of the officially tolerated Soviet intelligentsia (perhaps because I do not know them as well as he does). Nevertheless, it seems to me that as time passes and the regime becomes more and more clearly anachronistic, the discontent now largely affecting literary circles will spread through the scientific and technical intelligentsia to the Party itself, and perhaps even to elements within the Party leadership. I do not expect this to happen overnight, nor even perhaps within the next decade. Such an evolution may indeed, as Amalrik indicates, come too late to avert an even more reactionary military dictatorship based on sheer chauvinism. Yet all those who know Russia recognize that there are no watertight compartments separating active members of the 'democratic movement', loyal but critical intellectuals, economic managers and Party officials. A definite intellectual osmosis has been going on for some time and is bound, it seems to me, to continue. The current Soviet economic crisis should, I would think, accelerate the process.

I do not find Amalrik's vision of Soviet disintegration in a war with China as fantastic as have some Western critics. I rather suspect, in fact, that Kremlin 'hawks' have been restrained from pre-emptive action against China largely by their fear of the consequences within and on the borderlands of the Soviet empire. The morale of the Soviet Army and the Soviet people has not been seriously tested since the Second World War — and the events of 1941 were certainly such as to make any future Soviet ruler think twice before committing Russian troops to extended combat. I, for one, am inclined to believe that the Kremlin would not have ordered the invasion of Czechoslovakia if it had not already been assured that (a) the West would do nothing and (b), more important, the Czechs would not fight. The behaviour of Soviet troops in Czechoslovakia and the reactions of ordinary Muscovites during the anxious days between the invasion and the Moscow agreements of 26 August 1968 demonstrated a considerable edginess and insecurity.

To be sure, in a war with China all kinds of racist feelings could be mobilized to stimulate morale on the home front; but, as Amalrik points out, such a war would necessarily be long and difficult if waged solely with conventional weapons, as it would be once China acquired sufficient nuclear capacity to threaten half a dozen Soviet cities. Therefore, if such a war did break out (as Amalrik predicts) by the early 1980s, the disintegration of the Soviet empire might indeed be a likely result.

Most critics, including myself, find it easier to accept Amalrik's prophecy of the loss of Stalin's post-war protectorates in Eastern Europe than his belief that the USSR itself would be rent by nationalities con-

licts. The evidence has, certainly, been far clearer in Eastern Europe—from the Titoist heresy of 1948 to the Erfurt crowds chanting 'Willy, Willy, Willy, Brandt!' The true state of the nationalities problem within the Soviet Union, on the other hand, is one of the matters about which we outsiders know least and should observe the greatest discretion. If anti-Russian feeling seems fairly evident in the Baltic States, and a sense of cultural superiority obvious in Armenia, the situations in the Ukraine and in Central Asia are most confused and contradictory.

In predicting anti-Russian movements among the other Soviet nationalities, Amalrik writes with both sorrow and anger—anger at the Russian Tsars and General Secretaries whose oppressions have driven, are driving and (in his belief) will drive the other Soviet peoples into the same anti-Russian passions as the Czechs and Slovaks were driven on 20 August 1968. Amalrik is no Marxist, but he passionately shares Marx's belief that 'no nation can be free so long as it oppresses other nations'. Nor is he a Leninist, but he would be the first to volunteer the observation that matters were more hopeful when Lenin at least proclaimed the principle of self-determination, accepted (under duress, to be sure) the independence of Finland and the Baltic states, and did encourage genuine cultural (though not political) autonomy among other Soviet nationalities. He is, of course, fully appreciative of the fact that the Georgian Stalin was the worst Muscovite-centralizer and Russifier of them all.

Amalrik forecasts the disintegration of the old Russian Empire not with joy but with despair — the despair of a Russian who wishes freedom and humane civilization for his people rather than the false imperial 'glory' which has enslaved it. In fact, his very despair is in a venerable Russian tradition.

So that Amalrik's prophecy of the dissolution of the empire in a Sino-Soviet conflict is hardly 'anti-Russian' but very Russian. Should such a conflict indeed break out, the consequences for the USSR might well be those dolefully forecast by Amalrik.

However, I wonder if, within a decade, China will still resemble the China of Mao Tse-tung's declining years. Must it continue to be so internally dogmatic? Must it continue to be so tactlessly bellicose in its revolutionary pretensions? Must it — and this is the most important question of all — remain in isolation, refusing to exploit the world power balance, and particularly the Washington-Moscow-Peking triangle, to its own advantage? Much, of course, will depend on the conduct of other powers — the United States, in first place — but much will also depend on Mao's successors. Prediction is impossible — which is to say that China, by the time it can engage Russia in mortal combat, may no longer wish to do so.

Strategy For Democracy

K. K. Sinha

EVER since Smt. Indira Gandhi decided to go her own way against the wishes of other leaders of the united Congress, it became apparent that clarification of the meaning of the terms Left and Right was necessary. But this clarification did not take place. In fact, the Congress(O) leaders wanted to create the impression that they were no less radical and "progressive" than the Congress(N). Now they are talking of alliance with "like-minded parties" like the Swatantra and the Jana Sangh. This makes for more confusion.

There seem to be two major motivations in the effort at rallying the Congress(O), the Swatantra and the Jana Sangh. One is the toppling of Smt. Indira Gandhi's government. Another is the prevention of the Central Government getting under the clutches of Soviet power. But any major political shift, if it has to be stable, must have a positive orientation.

The terms Left, Progressive, Socialist etc. have not been clearly defined. But they do represent certain ideas and policies. For example, they mean increasing statification of the economy. Not only new major industries have to be owned by the state, even the old ones are to be brought under its effective control. Trade, both external and internal, has to be progressively nationalised. Transport, power and credit are to be also increasingly under state-ownership and control. There is to be increasing control over the rest of the economy either through licensing or through control over raw materials, or credit and finance. Less private income and more taxation. Wages are to go on increasing without any reference to either productivity or profit of the enterprise. In the agricultural sector, Left stands for smaller units, credit control, state trading and cooperativisation of distribution. The Left believes in detailed planning of the economy as a whole and its control by the state. In the political sphere the Left is increasingly anti-religion and encourages populist tactics and is growingly dependent on the Soviet Union. The Left does not have much regard for the Indian Constitution or for the independence of the judiciary.

This being the general outlook of what is termed Left or Socialist or Progressive, it is necessary for the Right to state its broad pattern of outlook. Unless a coherent picture of what is Right emerges and makes an impact on the public mind, it will not be possible to confront the Left. Only in such a contingency the issues will be joined and the Right will be in a position to challenge the Left.

Instead of trying to do this the three "rightist" parties are concentrating on the organisational aspects of the problem of trying to arrive at an organisational

alliance. If the elections are to be fought early, perhaps this is necessary. Even so, a greater understanding in depth can take place only on the foundation of "like-mindedness" on essentials. Even from the point of the electorate, unless the public feels that the programme and perspective of the Right is more realistic, faster growth-promoting, it will not be very much moved by what these parties say. Merely stressing on the negative and subjective aspects of the Indira government would not carry conviction.

I believe the Right *can* formulate a sound and convincing platform, or rather a broad manifesto of its outlook, once the different parties involved consider this as an urgent political necessity and also agree to subdue their respective individual political egos to the general framework of values.

For example, on the economic front, the Right should stand on a growth-oriented economy—an economy that will stress on productivity and production. It should encourage savings, investment and enterprise by the people and adjust taxation policy accordingly. It should prevent monopoly, and minimise control. It should promote perspective planning but should not encourage detailed planning of long duration. It should try to maintain the price line. It should adapt a policy of state actively promoting a programme of infra-structures such as roads, irrigation, power, etc. It should link up labour policy with the growth, productivity and efficiency of the economic enterprise. It should advocate a programme of employment-oriented projects based on a prosperous agriculture and agro-based industries. It should stand for honest and effective land reforms that would promote agricultural production, not hamper it. It should help in the availability of credit and finance for both agriculture and small-scale industry. It should clearly declare itself for a property-owning democracy.

In the political field too, the Right should clearly state that it believes firmly in the Rule of Law, the independence of the judiciary and the basic foundations of the Indian Constitution. It should also make it clear that state should be completely impartial between believers of different religions and it must defend the security and safety of the person and property of all individuals. It is not anti-religious. Rather the Right believes that belief in God helps in the strengthening of moral values in society.

In the matter of Centre-State relations the Right should suggest that it would endeavour evolving a creative federal system whereby the Centre becomes the focal point of a strong nation while the States as

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Reviews

The Warren Court

Constitutional Decision as an Instrument of Reform

Archibald Cox; Harvard University Press; Agents: Oxford University Press; \$ 4.95.

CONSTITUTIONAL Law is statecraft in the highest sense, Frankfurter has remarked. There is hardly any topic of constitutional law which does not affect politics. It is for this reason that pronouncements of the highest court of a country on its constitution arouse controversy. When that court has the power to review legislation and if it thinks fit pronounce it invalid, the controversy becomes keener. Not seldom the court becomes involved in party politics if it does not watch its step. On the other hand, there is no denying that it has the power to change for the better the old, settled rules which no longer answer the felt necessities of the times; it has the power to reform.

Earl Warren opened a new chapter in the history of the U.S. Supreme Court since his appointment as Chief Justice in 1953. For the next fifteen years, the Court over which he presided rewrote with profound social consequence, major constitutional doctrines governing race relations, criminal justice and the working of political democracy. Inevitably, this invited searching questions on the scope and legitimacy of the power of judicial review.

As Solicitor-General of the U.S. from 1961 to 1965. Mr. Archibald Cox argued before the Court many an important constitutional case on behalf of the U.S. Earlier, he had, both, practised law and taught law.

The lectures published in the volume under review were delivered before a general audience including lawyers and the laymen. Thus, while they bear all the impress of the lecturer's erudition, they are lucid enough for any intelligent reader to follow. Mr. Cox describes the main lines of constitutional development under the Warren Court, and analyses the pressures that produced the changes as well as the consequences of the changes.

Mr. Cox expresses his own opinion on judicial review in these terms: "In my view, constitutional adjudication presents an insoluble dilemma. The extraordinary character of the questions put before the Court means that the Court cannot ignore the political aspects of its task—the public consequences of its decisions—yet the answer to the question 'what substantive result is best for the country?' is often inconsistent with the responses obtained by asking, 'what is the decision according to law?' The Court may incline to one direction or the other, but no one could wisely and permanently grasp either horn of the dilemma."

The Warren Court set the pace early in its career by discarding the old "separate but equal" doctrine

and holding racial segregation in public schools as violatory of the guarantee of "equal protection of the law." *Brown vs. Board of Education* was ingeniously extended to cover private action also provided it had a public aspect. Fortunately the Civil Rights Act, 1964 was enacted and rendered the exercise of such ingenuity unnecessary. The courts rulings prior to the Act were none too consistent but, as Mr. Cox remarks, "We can hardly expect a logical pattern of decisions upon the extent of State responsibility for private action until the operative limitations of those ideas have emerged not merely in substantive terms but in respect to the relative functions of the legislative and judicial branches."

In interpreting the Act the Court strove hard to fill in the lacunae left by the Congress and this was done in favour of the Negroes. In doing so, of course, the Court fully reflected the egalitarian spirit of the times.

In the realm of criminal law, the Court ruled that a man too poor to afford counsel is entitled to legal assistance at State expense. This also applies to provision of transcripts and lawyers for appeal. Evidence obtained by unlawful arrest or search was declared inadvisable, so was that obtained by telephone tapping. The whole law of confessions has been re-written in favour of the accused.

At a time when talk of banning organisations is so common in India it is useful to recall the Warren Court's rulings which are sure to be cited as authorities of great persuasive value before any Indian Court. The Court sustained the right of an association to withhold its membership lists from official scrutiny and of an individual to withhold knowledge of his associations, where the State demonstrated no need for the information and where publication of memberships was likely to result in reprisals.

"Constitutional protection for the far-out groups seeking to overthrow the established order rests upon the vision of a society open to endless self-renewal. Only opinions which are so extreme as to frighten right-minded people are likely to be suppressed by governmental action, but history reveals that it is the small bands of heretics, like the early Christians and the Abolitionists, who stimulate the most important changes in civilization. Perhaps heretics are very seldom right, but their value upon those rare occasions is too great to trust the power to separate falsehood from truth to Government officials. In protecting heretics the Court is protecting the opportunity for progress."

Perhaps the most controversial of the Court's decisions were in the Re-Appportionment cases. The Court ruled that the guarantee of equality before law gives each citizen a right to equal representation in a State legislature, and the right is enforceable by the judiciary. If implemented this will mean a redistribution of seats from rural to urban and suburban areas and will revitalise State Government in the country. Here is a case of the judiciary affecting most directly the

distribution of political power. This decision drew a vigorous dissent from Justice Frankfurter who felt that the Court was getting entangled in politics. Did the Warren Court exceed the powers of judicial review? "Only history will know whether the Warren Court has struck the balance right. For myself, I am confident that historians will write that the trend of decisions during the 1950's and 1960's was in keeping with the mainstream of American history—a bit progressive but also moderate, a bit humane but not sentimental, a bit idealistic but seldom doctrinaire and in the long run essentially pragmatic—in short, in keeping with the true genius of our institutions."

The important point is that barring the lunatic fringe, the Court's integrity was never questioned despite the fact that appointments to the Supreme Court Bench are made on political considerations in the U.S. This is not so in our country, and one can only hope that in this respect the U.S. experience will continue to be regarded as a warning and not a precedent.

A. G. NOORANI

The Working of Parliamentary Democracy in Ceylon

A. R. Tyagi and K. K. Bhargava, Sultan Chand and Sons, Delhi 6.

INSPITE of the geographical proximity of Ceylon not many in India are acquainted with the social and political institutions in the emerald island. *The Working of Parliamentary Democracy in Ceylon* unveils before its reader the characteristic features of Ceylonese polity.

In keeping with the British legacy, Ceylon decided to adhere to a parliamentary form of government which is headed by a Governor-General appointed by the Queen of England who is also the Queen of Ceylon. The Governor-General, though adorned with a number of powers, is conventionally prevented from effectively exercising them. As the representative of the British Crown, he poses as the symbol of high ethical values and floats above politics. Like in U.K. or India, the Prime Minister is the real custodian of power and occupies a place of unmatched significance. Through constitutional provisions the Premier is expected to hold the portfolios of defence and external affairs. The Governor-General's emergency powers are always at his service and he is seen making a frequent use of them.

The Senate which is the upper chamber of the national legislature consists of partly indirectly elected and partly nominated members. The lower house occupies the dominating position. Ceylonese parties are loose organisations unaccustomed to rigid discipline. Defections are common. Personalities count more than principles.

With the exception of one (the government of

Mrs. Bhandaranaike in 1960), all governments have been coalition governments. Rule of law prevails. The independence of the judiciary leaves no room for suspicion. The fact that Ceylon could conduct in a peaceful and orderly manner general elections on half a dozen occasions on the basis of adult suffrage bears testimony to the high degree of merit possessed by the Civil Service. Free and healthy institutions of local government are the true pillars of the strength of a democratic system. The late Mr. S. W. R. D. Bandaranaike was the architect of the modern system of local government in Ceylon.

The intrinsic value of the book would have been greater if repetition of matter was avoided along with apparently contradictory statements at places.

V. B. PATANKAR

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co-partners in a common enterprise vigorously develop their potentialities in harmony with their respective cultural variety and needs and resources, making the country strong, vigorous and vibrant as a whole.

In the realm of foreign policy, the Right should stand for a strong, independent state playing an effective part in the world council of nations in favour of peace and world government, and as a peaceful power exercising a friendly and stabilising influence in the region. India, according to the Right, is not to be a satellite or unduly dependent on either of the Super-Powers.

On some such basic ideas the Right could develop a broad manifesto and even before an alliance between Rightist parties is worked out, such a manifesto could be presented to the people and popularised. This will generate a momentum for political cohesion and cooperation at the base and even non-attached citizens attracted by these ideas may be drawn in.

Once such a manifesto is made public in a big way, its effect on the Left would also be great. There are many with the Congress(N) who are genuine democrats and who loathe to be unwilling fellow-travellers with the communists. But today, in the absence of the proper image of the Right, they are with the Congress(N). Once the issues are made explicit, they will find it more convenient to come back to their natural habitat.

India has come to a stage where, with the splitting of the Congress, she faces a cross-road. The road to the Left is in clear view and there is hardly any haziness about it. But the other road seems to split further in three or four different directions. Therefore, if the Left road is to be avoided, the road to the Right has to be redrawn as a broad, clear and smooth highway. If at this time the rightist parties waste their time in insisting on their oddities and angularities and do not try to stress jointly the essentials of the broad highway, they will only help the people making the wrong choice.

With Many Voices

"The deep
Moans round with many voices. Come, my friends,
'Tis not too late to seek a newer world."
—Tennyson.

Call it fascism, or turn over the medal and call it by its slightly more respectable name, communism. Either way, is it what the Indian people want?

—Nayantara Sahgal, *The Illustrated Weekly of India*, December 13.

Leading personalities who talk glibly of democracy and democratic methods seem slowly but surely to be leading us towards totalitarianism or chaos.

—M. C. Setalvad, *Current*, December 12.

The fact that Alexander Sozhenitsyn dare not leave Russia to receive his prize, because he is afraid that the authorities of his own country will not let him return, is a universal scandal.

—*Swiss Press Review and News Report*, December 7.

The best patriot is not the man who pampers over his country's failings but the man who exposes the wounds so that they can be cured.

—Andrei Amalrik, *Survey*, Winter-Spring 1970.

Capitalism is not about to take over India. Communism is.

—Rajmohan Gandhi, *Himmat*, December 4.

It is for the Government to convert the sceptics through performance and not through bravado of words.

—*Janata*, December 13.

To the Editor,
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In Moscow's present calculations India and Pakistan are equal clients.

—*Thought*, December 12.

Opportunism masquerades as a call to conscience.

—S. Mulgaokar, *Opinion*, December 15.

There is no doubt that we are still in the era of the superpowers. They are in a class apart and are likely to remain so for a long time.

—Prime Minister Edward Heath, *U.S. News & World Report*, December 21.

We are living in India in a juvenile phase of adolescent thinking and chatter.

— Frank Moraes, *Indian Express*, December 21.

All through mankind's story the execrated villains of tomorrow have been those who were given excessive licence to commit wrongs today because yesterday they were genuinely in the van of progress.

—*Economist*, December 12.

"A great writer," says one of the characters in Solzhenitsyn's *First Circle*, "is like a second government. That is why no regime, anywhere, has liked its great writers."

—*Economist*, December 12.

Mao Tse-tung is copying Stalin's personality cult.

—Nikita Khrushchev, the former Soviet Prime Minister, *Times of India*, November 24.

Should the Government of the day be permitted to have the luxury of Socialism at the cost of the taxpayer?

—C. N. Vakil, *The White Star*, December 1970.

In the wide expanse of the Indian Ocean all are free in law to cruise and to build bases or whatever other facilities they need.

—*The Economic Times*, December 23.