

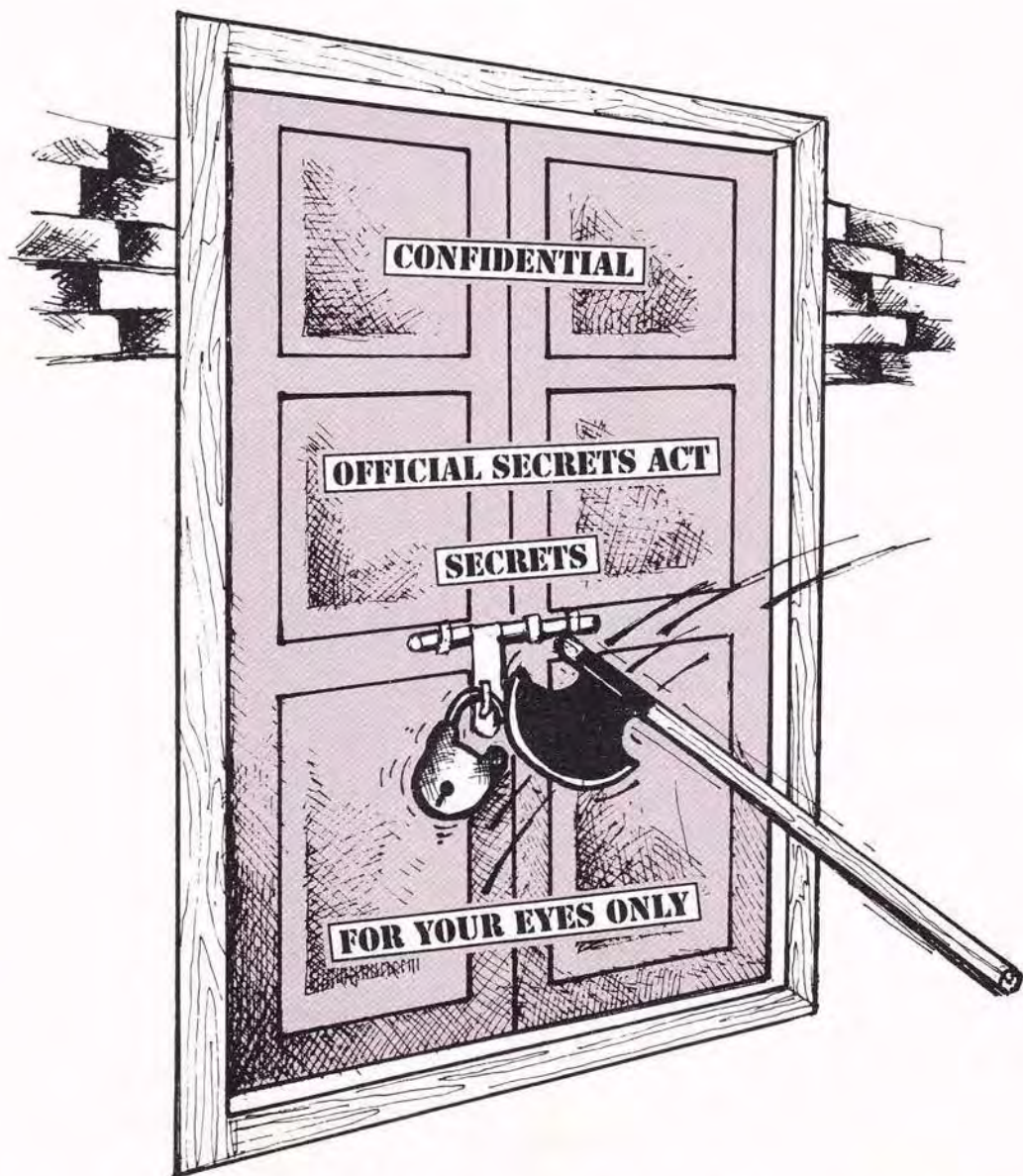
A QUARTERLY OF LIBERAL IDEAS

Freedom First

July-
September 1996
No.430
Rupees Fifteen

44TH YEAR OF PUBLICATION

Right to Information



**The Eleventh Elections
to the Lok Sabha**

Hast Thou Reason?

OUR MISSION

Freedom First speaks for the silent majority - the majority that wants to be left in peace to pursue its goal of improving its quality of life, but has been suffering in silence, the indignities heaped on it by insensitive governments who have arrogated to themselves the right to decide what is good for the people. In the process, the whole country has been turned into a cesspool of corruption. Public morality and character have reached an all-time low.

Freedom First affirms that much of the unrest and ferment in our society is a direct result of excessive State intervention in the day-to-day lives of our people. While the people's initiative has been stifled, the economy is in shambles. The journal believes that while India needs a strong government that ensures the rule of law, what India does not need is a meddlesome government - the system so far that has led to impoverishment, insecurity and instability.

Freedom First therefore stands for minimum government and maximum freedom, tempered by a sense of individual responsibility, in which the people's genius has a fair opportunity to develop and grow.

Freedom First rejects any ideology, movement or policy that sets one group of citizens against another, be it based on class, caste, religion or envy.

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Freedom First

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BETWEEN OURSELVES ...

Information is Power. This may be a *cliche* but nonetheless true. It is, as I learnt over the years, a common human failing. It is true equally of people in government as of outside. Outside the government, the harm or damage caused by persons in authority holding on to information may be limited. The shareholders of a company, for instance, may suffer if a senior manager holds back vital information that has a bearing on the company's prospects; or a manager, who does not share information with his colleagues or his juniors in the mistaken belief that by holding information close to his chest, he ensures his position and job security. On the other hand, when a government official or an elected representative holds back information on the ground that releasing the information is not in 'the public interest', it does much harm to the public good. The right to information is an integral part of a *genuine* democratic polity. These and related questions are discussed by a professor of politics, a jurist and a retired civil servant in this issue's cover feature.

The recent elections to the Lok Sabha marked the end of one-party dominance and the emergence at the national level of coalition politics. Some of us will remember the infamous Samyukta Vidhyak Dal (SVD) experiments in the mid-sixties in states like Haryana and Uttar Pradesh. Will the SVD government now in power in Delhi suffer the same fate? There is a brief discussion including a report of a seminar held in Bombay in which the participants were in the main from the politics faculty of universities and colleges as well as political activists.

The publication delays of *Freedom First*, we can now confidently affirm, will soon be a thing of the past. Quite a few readers have taken the editor to task for the delay in publication. We apologise once again and can only repeat our earlier 'excuse' that the delays were caused by reasons truly beyond our control. We hope to publish the October-December 1996 issue by end-November, and beginning 1997, the journal will be published in the first month of each quarter.

Editor

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WITH MANY VOICES

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

For all its commitment to secularism, the United Front is surprisingly incoherent on the Ayodhya dispute.

India Today, July 31.

I make Prime Ministers. I appointed the Railway Minister.

Laloo Prasad Yadav, *The Indian Express*, August 4.

The coming into existence of the Deve Gowda government in co-operation with the Communists and other Leftists has shown the best that is in Gandhism and the best that is in the Left movement.

CPM Leader Namboodiripad,
The Times of India, August 17.

In this celebrity-crazed era, there are far too many people who are more famous than they deserve to be.

Charles Peters, *The Washington Monthly*, December 1995.

The rule of Lee (Kuan Yew) has replaced the rule of law.

Singapore's former Solicitor-General, Mr. Francis Seow,
Business Line, November 1, 1995.

Pakistan cannot be saved by a handful of arms; its problems are more chronic.

Editorial in the *Asian Age*, October 27, 1995.

The political fortunes of Ms. Benazir Bhutto lie in the violence-stained slums of Karachi and the passions of Punjab : they cannot be gifted by friends from Washington.

Editorial in the *Asian Age*, October 27, 1995.

If I was making runs, I could come home with whoever I wanted and none would notice.

Former Indian cricket captain Mohammed Azharuddin, *The Daily Telegraph*, London cited in *India Today*, July 31.

Our latest heroes are judges.

Tavleen Singh, *Indian Express*, March 31.

The judiciary may try to fill the gap created by executive failure but there is no substitute for an effective administration.

T. Chakraborty, Siliguri, West Bengal, in the 'Letters' column, *India Today*, April 30.

The Muslim consort of Lord Vishnu idolised in Srirangam temple shows how our ancestors wove tradition and faith to maintain harmony.

A. J. Sahayam, Thiruvananthapuram, in the 'Letters' column, *India Today*, April 30.

The farcical fashion in which the issue of economic reforms is being dealt with by political parties shows that politicians have only one agenda in mind - power at any cost.

Madhu Kishwar, *The Times of India*, August 24.

Nationalism is secularism for the BJP and Hindutva is nothing but nationalism.

Senior BJP Leader Mr. K. R. Malkani,
The Asian Age, August 10.

Whenever an Opposition political party in Nepal wants to increase its popularity at home, one sure way of boosting votes is by raising the bogey of India.

The Asian Age, August 27.

The Labour Party in Britain never was a socialist party. It just has socialist members in it just as the church has some good Christians.

Tony Benn MP, *The Times of India*, April 2.

If merely the construction of temples would find a solution to the (communal) problem then I am ready to get a temple built in each village in the country.

Prime Minister Deve Gowda, *The Pioneer*, July 29.

The Constitution does not provide for a ban on people with a criminal past getting elected.

Lok Sabha Speaker P. A. Sangma,
The Afternoon Despatch & Courier, June 22.

OF CABBAGES AND KINGS

Not in Your Stars but in Your Estrogen

Readers of *Freedom First* might recall the following humorous verses of Aldous Huxley:

A million million spermatoza
All of them alive
Out of their cataclysm but one
poor Noah
Dare hope to survive.

And among that billion minus one
Might have chanced to be
Shakespeare, another Newton, a
new Donne
But that One has Me.

The billion sperms that we learn of is now being depleted rapidly. A newspaper reports that in a sperm bank in South Mumbai, only 10 to 20 of the hundred who offer to be donors have acceptable sperm count. A sperm count of 100 million which was common a few years ago is very rare these days. They have fallen in men to about 40% of what it was in the 1940s - which would mean a large number of males are infertile. Will this lead to a total depletion of the human race in a ten thousand year span?

This is not restricted only to humans. "Dozens of species, from Florida alligators to Lake Michigan mink to Baltic Sea fish, have suffered documented cases of shrivelled penises and testicles, "feminized" male behaviour, female sterility and other fertility malfunctions". The Great Lakes of the U.S. have witnessed adult healthy fish and other species producing offspring that are far from healthy, with affected endocrine systems.

The villains here seem to be artificially made estrogens which are used for a variety of purposes and so widely used that traces of them are to be found in rivers, lakes and sewers. "A human

"the time has come," the walrus said,
"to talk of many things:
of shoes-and ships-
and sealing wax-
of cabbages -
and kings-"



male, exposed to just a fraction of estrogen could, theoretically, develop reduced fertility. Man-made chemicals, not only disrupt hormones but travel thousands of miles and contaminate living beings, in unexpected places. Traces of industrial chemicals have been seen among polar bears.

And these chemicals have increased. In the U.S., artificially made chemicals registered a 350-times increase in just forty years from 1940 to 1982. In 1992, the U.S. produced 435 billion pounds of these. While in the Western world, there has been an awakening to their ill-effects, do our political netas know any of these?

Will it be too late when we finally awaken to the dread possibilities?

RS.

Saudi Justice

A report in *The Asian Age* of May 25 states that an Indian citizen, Mr. Manickam Ramalingam was "beheaded by sword in a public execution in Riyadh" on March 22 for murdering his employer's wife. Wonder what steps the Indian Embassy in Riyadh took to ensure that Ramalingam received a fair trial. May be there were reports and I missed them. In case you, dear reader, read somewhere of what our embassy did, do share it with us. Ask any Indian expatriate or NRI what help he gets from Indian diplomatic

missions abroad and you will know the reason for this query.

'For a Few Dollars More...'

An AFP report datelined Hong Kong May 6 quotes Hong Kong's Democratic Party leader, Mr. Martin Lee as saying: "World governments are too worried about getting a slice of China's trade pie to bother about the rights of the people of Hong Kong, about to come under Beijing rule." Mr. Lee's rueful statement was made after his return from a visit to Canada, US and Britain.

The Chinese communists have no use for liberal democracy. Most Free-

Macnelly in *Chicago Tribune*



dom First readers are surely aware of the former's opposition to the introduction of democratic institutions in Hong Kong. How can they support democracy for Hong Kong when they

have denied it to their own people in mainland China. And they know that the world will not protest too much for fear of losing 'a slice of China's trade pie'.

Closer home is Aung San Suu Kyi's plea to world business enterprises to boycott Burma until such time as the military junta return Burma to democratic rule. In an interview to the satellite network *Asian Business News*, she said: "We would like people to keep away during 'Visit Myanmar Year' as a symbol of solidarity with the movement for democracy in Burma."

This AFP report in *The Asian Age* of July 24 quoted her further as saying: "We would like everybody who loves democracy and human rights to keep away from Burma to demonstrate the fact that they do not want to support a regime that practices injustice and oppression."

"I don't think any tourist has ever been invited to examine the prisons of Burma or to study forced labour camps or to see what it is like when people are moved from their homes of many, many years."

"We do not think now is the time for any foreign company to invest in Burma because the investments do not benefit the people at large. These investments only benefit a privileged few," she said.

The Burmese middle class is not hearing Ms. Suu Kyi if another report in *The Asian Age* of July 30 is to be believed. AP correspondent Denis D. Gray reports a white collar worker in Rangoon as saying: "We all love her, but I don't know many who pray to Lord Buddha for democracy. We pray for a decent life, peace and more money."

We are all aware of the position in Singapore where prosperity has dulled the people's desire for democratic governance on the one hand and the continuing preference of enterprises to place business before human rights, on the other.

In our own country, readers will recall some very eminent persons,

applauding Mrs. Indira Gandhi's emergency regime for the 'discipline it produced.'

Any thoughts?

The VIP Nuisance

According to a report in the *The Times of India* of March 31, Mr. Natwar Singh, the former diplomat and union minister for foreign affairs in the Congress government was "spotted in the ante room of 38 North Avenue, along with other ticket seekers, waiting for an audience with Samajwadi Party supremo Mulayam Singh Yadav."

If the report is true, it is hardly surprising for such is the lure of office after four decades of rule by the Congress and its look-alikes.

In Bombay, there is a traffic jam of Ambassadors with red lights on their roofs. You can see them scurrying everywhere and violating traffic rules with impunity. Often these vehicles carry not the VIPs but their families and their entourage. Shiv Sena chief Bal Thackeray has a proper measure of the people he has placed in power. Like a father who threatens to take away a toy or withhold pocket money from his erring son, Mr. Thackeray has often warned his ministers and sundry VIPs that if they don't behave he will deprive them of their red-light Ambassadors is a visible 'perk' that those in power in Maharashtra are loth to lose.

There was much 'hoo ha' over the reported incident of Phoolan Devi, MP getting an express train to halt at a railway station, which was not a scheduled stop, to enable her to alight. So what's new. Alluding to this, Vidya Subramaniam pointed out in *The Times of India* of July 16: "Phoolan probably assumed she was merely exercising one of her innumerable legislative privileges. After all, bigger celebrities than her had done pretty near the same thing and emerged none the worse for it."

On the other hand, it was amusing to read a report by Poornima Joshi in *The Hindustan Times* of August 31 headlined "Undertrials treat VIP inmates with contempt". According to Ms. Joshi, "Charandas, a bad character

in the area of police station Pharganj recently slapped Chandraswami while going to Tis Hazari district courts." Charandas reported explained: "I slapped Chandraswami because for the rest of my life, I would live with the satisfaction that I slapped the great godman, the guru of a former prime minister." Another VIP prisoner who received rough treatment from fellow (but non-VIP) prisoners was former union minister Kalpana Rai who was reportedly bashed up.

Socialist India created not only a large herd of VIPs but also a constantly increasing number of VVIPs (prime ministers and the like). These latter are not only a nuisance to the public especially when they decide to travel but are also a drain on the public exchequer even after they cease to hold office. According to former prime minister Mr. V. P. Singh: "the Special Security Group (SPG) was meant only for the PM. Nowhere in the world is the same level of protection given to Prime Ministers who are in office and those out of office. Have we become richer than the richest country to be doing this? It costs the country Rs.40 crores to protect a PM and three others. With two more protectees, the cost will go up by Rs.20 crores. This amount could mean 6,000 primary schools running every year." It must be said in fairness to Mr. V. P. Singh, he went to court to exercise the option of doing away with SPG protection.

SVR



Illustration Courtesy: *National Review*, August 28, 1995.

The Right to Information

Towards an Open Government

R. Srinivasan

For a democratic country of nearly half-a-century vintage, we as a people have been in seclusion from many a process of decision-making where vital public interests are involved. Almost every public transaction has been tainted with allegations of people in positions of power feathering their nests.

That a democratic government alone can be a transparent one is obvious; for, any oligarchy or plutocratic government is by its very nature a closed entity, entry into whose charmed circles only a few have access. With the beginning of limited government in modern history, we find the development of newsheets, informing the public of happenings in government. The American statesman, James Madison put the case for this very well:

A popular government without popular information or the means of acquiring it, is but a prologue to a farce or a tragedy, or perhaps both. Knowledge will forever govern ignorance. And a people who mean to be their own governors must arm themselves with the power which knowledge gives.

For a democratic country of nearly half-a-century vintage, we as a people have been in seclusion from many a process of decision-making where vital public interests are involved. Almost every public transaction has been tainted with allegations of people in positions of power feathering their nests. The checks upon the government such as parliamentary committees, or judicial tribunals or commissions of enquiry meet only part of the requirements of public education; they hardly allay the thirst for knowledge about public affairs. Institutions like the *Lok Pal* and *Lok Ayukta* have proved to be far from satisfactory in reassuring the citizen. In developed countries like Canada too, doubts have been expressed regarding the efficacy of the Ombudsman. Several committees have reported of the

extremely limited utility of the Public Accounts Committee and of other parliamentary committees.

The citizen who is well informed and concerned still feels that more often than not, norms of public accountability and rectitude are violated. In this context, the work of investigative journalists cannot be commended too highly. It is they who have reminded the people of the need for transparency in public dealings and have exposed shady deals that seem to be endemic in all public transactions.

However, journalists cannot investigate all the time. The citizen when confronted with the bureaucracy finds that he has the greatest difficulty in getting to know the grounds for particular decisions taken in a specific case. He has very few avenues open to him to get his grievance heard, let alone redressed.

USA's Freedom of Information Act

Certain developments that have taken place in the USA are of significance to us. Similar developments have taken place in the Scandinavian countries too. In 1966, the USA passed the Freedom of Information Act. This gave the American citizen the right of public access to all the records of the federal departments. This is based on the philosophy that "timely provision of information to the American people, upon their own petition, is a requisite and a proper duty of the government." Initially, this access was only for those who were directly concerned with the records. Later there was a revision of the Act by which any person could demand records on any information.

Within ten days, the department has to respond to such requests, unless there be unusual circumstances that call for some delay. If the information is denied, the applicant can go to a federal court for redressal.

As happens in all such situations there are "protected areas" where the department may not reveal the information sought for - such as personnel or medical details, national defence, foreign policy, trade secrets, etc.

"Sunshine Laws"

Transparency is further extended by the right given to citizens to attend meetings where decisions are taken. "Sunshine Laws" enable the public to attend almost all meetings of government agencies where decisions are taken, be it advisory committees, study panels or other agencies of the executive branch.

All these innovations have led to a number of law suits being filed in courts and redress sought. And governments have attempted to restrict the access to citizens. Under President Reagan's Administration, sedulous attempts were made to "classify" and hence deny access to details of many government decisions on grounds of national security. The Iran-Contra scandal exposed the results of such secrecy. Attempts have been made to rectify the damage done to the spirit of the Act during the Reagan years. The case for transparency was well put by Justice Stewart:

"When everything is classified, then nothing is classified and the system



The Right to Information

becomes one to be disgraced by the cynical or the careless, and to be manipulated by these intent on self-protection and self-promotion. I should suppose, in short, that the hallmark of a truly effective internal security system would be the maximum possible disclosure, recognising that secrecy can best be preserved only when credibility is truly maintained."

Though written in the context of the Pentagon Papers, the principles have

universal validity.

Enactments similar to the Freedom of Information Act, 1966 have been introduced in Australia and Canada. In Britain too, in 1989, steps were taken in this direction. The Consumer Education and Research Centre, a non-government organisation in Ahmedabad has drafted a bill which needs to be widely publicised and the public given an opportunity to examine and discuss it.

It would be too much to expect in our country for something similar to the FOI Act to be passed at the Union level. If we are able to get such acts even at the local levels of government, especially at the municipal levels, we would have taken a significant step towards open government.

DR. R. SRINIVASAN is retired professor of politics, and associate editor of *Freedom First*.

Access to Information: The Constitutional Position

S. P. Sathe

The right to information be made a fundamental right subject to reasonable restrictions on the exercise of the right involving the sovereignty and integrity of India, the security of the State, friendly relations with foreign states, public order, decency or morality or privacy or in relation to copyright, contempt of Court and contempt of the Legislature.

Information is power and to facilitate people's access to information is to empower them. Access to information has always been a bone of contention between the haves and the have-nots. In ancient Rome, the major cause of conflict between the Patricians and the Plebeians had been the monopoly of legal knowledge on the part of the Patricians to the detriment of the Plebeians. Ultimately when the Plebeians revolted in a big way, the Patricians had to share with the former the knowledge of the laws by writing down the *corpus juris* in what came to be known as the 'Twelve Tables'. In Hindu tradition too the Brahminical hegemony was sustained by manipulated ignorance of the *Shudras* and women by denying knowledge to them.

Colonial rule sought to undo the Brahminical hegemony but replaced it by Imperial hegemony. There were several restrictions on the freedom of

Indians to express themselves. The Indian national movement was not only against foreign rule but also against any hegemonical rule. It held before the Indian masses a dream of a free India where freedom, equality and justice would reign.

Has this dream come true? Even after almost fifty years of independence, we have to admit that ignorance, poverty and exploitation of the people have survived. The access to information is the most vital input which could catalyse the people and help them fight against all sorts of injustices.

Right to Primary Education

If access to information is facilitated, the government becomes transparent and consequently accountable. The people have a sense of participation in the governance of the country. In such a transparent government, gossip has no place. The government's

credibility therefore improves. The right to information is therefore *asine qua non* for a participatory democracy.

Certain pre-conditions must exist, however, for the successful assimilation of the right to information. Firstly, there must be universalization of education. The Constitution of India (Article 45) had laid down that the State shall provide for free and compulsory education for all children below the age of 14 within a period of ten years. Unfortunately this important directive principle of state policy was not implemented even forty years after the commencement of the Constitution. The right to information can be meaningless in a society where more than fifty per cent of the people are illiterate. One can have the desire for information and the capacity to acquire it only if one has basic education. I had said in 1991 in my lectures on the same subject delivered at the University of Delhi that



The Right to Information

that the right to primary education must become a fundamental right. I feel vindicated by a recent ruling of the Supreme Court in which the right to primary education has been held to be part of the right to personal liberty guaranteed by Article 21 of the Constitution.

Panchayat Raj

Another reform, which should have come much earlier was the establishment of Panchayats. Decentralisation of power to the grass-roots is the condition precedent to the empowerment of people. The Constitution (Seventy Third Amendment) Act, 1993 has at last conferred constitutional status on the panchayats. But panchayats can work meaningfully only if the people are given access to information. Democracy can be saved from its manipulative operators who use the democratic process to aggrandize their own coffers and power only by empowering the people.

Newsprint Control Order

Does the Constitution of India contain a guarantee of the right to information? In recent years, the Supreme Court has recognized this right in a number of situations. The decisions of the Court and also some decisions of the High Court tend to create an impression that the right to information is implicit in the right to freedom of speech and expression guaranteed by Article 19(1)(a) of the Constitution. A careful study of these judicial decisions will reveal that the courts have recognized the right to information only as collateral to some aspects of the right to freedom of speech and expression. For example, in the Benett Coleman case, the Court observed that one of the consequences of the Newsprint Control Order which forbade newspapers from publishing more matter was to deny information to the readers. The Order was bad because it prevented newspapers from

giving information to readers. Giving information to readers was doubtless an aspect of the freedom of the Press. The newspaper therefore has a right to give information to the reader. But can we infer that a reader has the right to information from a newspaper? If a newspaper gives wrong information, it may be assailed before the Press Council. But can a reader insist that a newspaper must give him information that he desires?

Doordarshan

In the last parliament the BJP protested that Doordarshan purposely blacked out its meeting on the Religion Bill held in Delhi. Other opposition parties have also made such protests in the past. They have taken up these issues politically obviously because they do not have any legally enforceable right against Doordarshan to have their programmes covered by it. True, the people have the right to know about meetings held by opposition parties. The blacking out of such news by Doordarshan is against canons of impartiality of the mass media in respect of news. Such right to information on the part of the people, however, is not covered by the right to freedom of speech and expression guaranteed by Article 19(1)(a).

Yogakshema Case

Recently this aspect came up before the Supreme Court in the Life Insurance Corporation v/s. M.D. Shah. The facts of the case were as follows: Prof. Manubhai Shah of the CERC wrote an article criticizing the policies of the LIC. An employee of the LIC, Mr. Krishnan, wrote an article in which he sought to contradict the points made by Prof. Shah. This reply was published in the *Hindu*, an English language daily. Professor Shah wrote a rejoinder to that article and also got it published in the *Hindu*. Thereafter the original article of Mr. Krishnan was published in *Yogakshema* a house journal of the

LIC. Prof. Shah requested the LIC to publish his article also in the *Yogakshema* for the benefit of its readers. The LIC declined to do so and Shah moved the Gujarat High Court with a writ petition under Article 226. The High Court accepted Shah's plea and issued a writ asking the LIC to publish Professor Shah's article in *Yogakshema*. The LIC went in appeal to the Supreme Court and the Court upheld the decision of the High Court. By conceding Professor Shah's right to have his article published in *Yogakshema*, did the Court not unnecessarily compromise the right of the editor of *Yogakshema* not to publish it? From this could we draw the conclusion that every reader is entitled to put forward another view point on a subject in a newspaper? The Supreme Court has justified its decision on the ground that readers are entitled to know Shah's views.

Whose Right to Know?

If the right of the reader to know is to prevail over the right of the editor, what will be the fate of editorial freedom? Shah had already published his views in *The Hindu*. Was it necessary to have them also published in the LIC's house journal? Whose right to information was the Court enforcing, of the readers of *Yogakshema*? It was not the readers who went to the Court, it was Professor Shah who went to the Court.

While the decision in respect of Professor Shah may be justified on the ground that the consumers had the right to know and the LIC's readers after all were consumers of the LIC, my objection is to the conceptualization of the right to information as being part of the right to freedom of speech and expression. In fact the Supreme Court itself seems to have been aware of the long term implications of such conceptualization and therefore hastened to add that the decision should not be understood as having laid down

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The Right to Information

to editorial freedom meaningless and thereby frustrate the most important fundamental right of freedom of the press.

In many cases involving environmental issues, the courts have compelled the respondents, who were often governmental authorities, to give information to the petitioners on matters which could not otherwise be accessible to them. This was done to enable the petitioners to successfully impugn the actions of the administrative authorities. Although courts have often spoken of the right to information, the orders could not have emanated from such right to information, rather, they emanated from the courts' power to have such information for judging the validity of an administrative action.

The Judges Case

In *S. P. Gupta Vs. India*, popularly called the Judges case, the Supreme Court interpreted Sections 123 and 126 of the Indian Evidence Act to hold that the government could not claim privilege to withhold information about the appointment of judges. Although Justice Bhagwati (as he then was) talked of the right to information, one may ask whose right to information he had in mind? It is submitted that although he had transparency of government in mind and therefore ultimately wanted such matters to be of public knowledge, that was more to facilitate judicial review of such actions than in deference to the

right to information of the petitioners. The Court held that the executive could not withhold any information but that it could withhold only such information as was necessary to be withheld for protecting the confidentiality of certain governmental transactions in the public interest. It would be subject to judicial review whether a matter deserved confidentiality. The Court asked for disclosure of information because without such information it could not decide the validity of the impugned actions. If at all the Court had any right to information in mind, it was its own right against the executive.

These decisions have doubtless facilitated access to information but have not articulated the right to information on the part of the common man. These were essentially cases in which questions regarding the validity of certain administrative acts had been impugned by public spirited citizens on the ground that those acts violated the law or were done *malafide*. The Court's orders asking for disclosure of information were in fulfillment of its urge to get at the truth of those allegations. What was at issue was not the right to information but merely the power of the Court and its capacity to review those impugned acts.

Transparent Administration

The right to information is scattered over a number of provisions of the Constitution and it is also to be found in a number of statutes. Administrative law has always recognized two very important rights of a person against the administration. These are (i) the right to be heard and (ii) the right to be given reasons for decisions. Both imply the right to information. In our public law jurisprudence, both rights have been undergoing gradual expansion. The right to a fair hearing and unbiased decision making are two important aspects of the principles of natural justice. They are also considered as bulwarks against governmental

arbitrariness. If an adverse action is being taken against me, I am entitled to be given notice of such action and I must also be given an opportunity to put forward my say in the matter. The Courts have not yet made it a right to be given reasons mandatory in each case. There are situations where reasons may be given but they need not be communicated. But such instances must be few.

A transparent administration would require that reasons for its decisions must be manifest and except in cases involving national security or personal privacy they must be communicated to the person concerned. Fair hearing and reasoned decisions are also parameters of the reasonableness of restrictions imposed upon any of the rights guaranteed by Article 19(1). These principles of natural justice have now become part of the procedures established by law within the meaning of Article 21 of the Constitution. The right to information must now be included within the right to live with dignity which that article assures.

In view of the fact that the Supreme Court has held that the right to education is part of the right to personal liberty (*Mohini Jain, Unni Krishnan*) the right to information now is definitely included within the protection of Article 21. There are specific rights to information mentioned in the Constitution. Article 22(1) says that no person who is arrested shall be detained in custody without being informed, as soon as may be, of the grounds for such arrest nor shall he be denied the right to consult, and be defended by a legal practitioner of his choice. Similarly, it has been provided that no person who is a member of the civil service shall be dismissed or removed or reduced in rank except after an inquiry in which he has been informed of the charges against him and given a reasonable opportunity of being heard in respect



COURTESY: National Review, November 6, 1995



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be dismissed or removed or reduced in rank except after an inquiry in which he has been informed of the charges against him and given a reasonable opportunity of being heard in respect of those charges [Article 311(2)].

However, these specific provisions do not dispense with the need to have a general provision conferring the right to information on every citizen of India. Such right must be confined to the citizens alone. This right, however, cannot be absolute and the State will have to have power to impose reasonable restrictions on it. All those grounds on which freedom of speech and expression can be restricted will have to be included as permissible grounds of restriction.

Right to Privacy

However, the following three grounds will have to be added to such a list of permissible grounds, namely privacy, copyright and contempt of the Legislature. Can I obtain information about the income of another person? Can I obtain information about the sex scandals of a politician or a judge or a public servant? A newspaper is entitled to keep the names of its informers confidential (*Nishi Prem*). Since the restrictions have to be reasonable, the Courts can decide the reasonableness in each case. For example, information about the income of a husband may be necessary for awarding a decree of maintenance in a matrimonial case. Information about a sex scandal may acquire importance if it is associated with the exercise of power. Privacy has now been included as an aspect of personal liberty guaranteed by Article 21 (*Neera Mathur*).

The Supreme Court admonished the LIC for seeking information about the regularity of menstrual cycles of women applicants in a declaration to be filled by a women employee at the time of recruitment. Privacy could also be included within the existing grounds

of decency and morality. But not all aspects of privacy could be protected under those grounds. For example, should a company be able to obtain information about future plans of a rival industrial concern from the Directorate of Industries which may requisition such information for statistical purposes? Or take copyright. Do I have the right of access to information copyrighted by another? We must strengthen copyright and make plagiarism unprofitable. Firm steps against video piracy will have to be taken. Protection of copyright is necessary for encouraging research leading to new information.

Right to Information, Fundamental

I therefore suggest that the right to information be made a fundamental right subject to reasonable restrictions on the exercise of the right involving the sovereignty and integrity of India, the security of the State, friendly relations with foreign states, public order, decency or morality or privacy or in relation to copyright, contempt of Court and contempt of the Legislature.

Constitutional amendment is recommended because unless there is a constitutionally guaranteed fundamental right, the existing laws inhibiting information will not be erased. For example, Parliament made an amendment to the Commissions of Inquiries Act whereby the government can withhold the report of an inquiry even from Parliament. Such a law could be held unconstitutional under Article 13(2) if right to information is included as a fundamental right.

Another advantage of having the right to information as a fundamental right will be that the remedy of Article 32 of moving the Supreme Court directly will be available against its violation. Further, any subsequent repeal of such right would become impossible since the right could easily

be held as being part of the basic structure of the Constitution. (*Keshavanand Bharati*).

Although we are recommending that the fundamental right to information be confined to the citizens, the right to information contained in other provisions of the Constitution such as Articles 21 and 22 will be available to any person. Moreover, the

When a 'Privacy Right' can Ham Others' Right to Live!

The pilot who was at the controls of the American Eagle turboplane that crashed at Raleigh-Durham misinterpreted an engine light on the instrument panel, wrongly concluding that an engine had failed. He didn't check to make sure he was right, as he was supposed to, and he failed to take the steps needed to land a plane with one engine.

This behaviour should not have come as a surprise. The pilot had previously been forced to resign by Comair, another commuter airline, because of poor performance. But American Eagle had not asked Comair about his safety record. Even if American Eagle had asked, Comair's policy was not to tell. The reason is that, according to *The New York Times*, "few airlines will tell another about a former employee's performance for fear of being sued by the applicant if the information is used to deny the person a job."

Shouldn't airlines be required to find out - and to disclose to other airlines - the flying history of each applicant for a pilot's job? That's what the National Transportation Safety Board has recommended. But the FAA and the pilot's union have objected because they fear that the performance information might violate pilots' privacy rights. Why on earth should information bearing on the pilot's ability to safeguard the lives of passengers be regarded as private?...

Charles Peters,
The Washington Monthly



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Freedom of Information Act, to be enacted for detailing various aspects of such right to information could extend that right to persons other than citizens also.

Freedom of Information Act Needed

However, a mere constitutional amendment will not suffice. There are so many laws on the statute book like the Official Secrets Act, 1923 which inhibit the flow of information. Section 5 of the OSA is omnibus and can make any disclosure an offence. There is a tendency in government departments to classify any document as "confidential" and therefore most ordinary and innocuous documents have remained away from public knowledge. True, the OSA has been

used rather rarely. But that it can be used to suppress information was evidenced in its application to villages near the proposed Sardar dam in Gujarat for preventing the *Narmada Bachao* agitators from entering the Dam site.

The archival policy of the Government must also become more liberal. A comprehensive Freedom of Information Act (FOA) incorporating the essential provisions of the Official Secrets Act such as those against spying or preserving confidentiality in vital security matters, of Sections 123 and 126 of the Indian Evidence Act regarding the Executive's privilege to withhold disclosure of documents, etc. should be enacted. Such legislation

would be necessary to fulfill the objectives of the additions to Article 19 which I have recommended.

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Right to Information

M. S. Srinivasan

The rule of law requires that the citizen should have full information of the democratic processes and decisions that are bound to affect him so that he has an opportunity to interact and contribute to the processes of decisions and statutes. Impositions, uninformed and without justification and consent, would tend to become tyranny, reducing the citizen to slavery.

Correct and complete information is the basis for all rational decision-making at the level of individual, family, society and nation. Information enables the leaders to take decisions, their followers to understand and implement the decisions, the citizens (even the uninformed) to appreciate the logic behind the decisions and to co-operate in the rule of law and management of affairs. Where groups and conflicts are involved, information helps and facilitates to yield, adjust and reconcile differences, and to compromise and collaborate in the larger interests of society.

Fundamental Rights

The right to information is indeed

the counterpart of the freedom of speech which has been embodied in the chapter on fundamental rights. Article 19(1) of the Constitution provides: "All citizens shall have the right (a) to freedom of speech and expression; (b) to assemble peaceably and without arms; (c) to form associations or unions; (d) to move freely throughout the territory of India; (e) to reside and settle in any part of the territory of India; and (g) to practice any profession, or to carry on any occupation, trade or business." Indeed speech is the tool for the communication of information, ideas, thoughts; assembly is an organisation to facilitate communication and transmittal of information; moving about freely and pursuing professions are the means to

improve the information content, which is the fountainhead for communication.

The provision on freedom of speech in the Indian Constitution suffers from an abridgement in comparison with the zealous provision in the American Constitution through its First Amendment. But there is a tendency on the part of the current generation of leaders to abuse such freedom of speech and defame the persons who differ from them.

How important freedom of speech and expression is for the functioning of democracy has been well stated by H. M. Seervai in his outstanding work on the Indian Constitution:



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"The freedom of thought and expression, and the freedom of the press, are not only valuable freedoms in themselves, but are basic to a democratic form of government which proceeds on the theory that problems of government can be solved by the free exchange of thought and by public discussion.... classic pleas for the liberty of thought show that restraint on the freedom of thought "hinders and retards the importation of our richest merchandise, Truth. The high value attached to this freedom in our Constitution can therefore be taken as the basis of any discussion on the subject.



"However, the censorship imposed in 1975 (under the guise of an emergency) on freedom of speech and expression, including the freedom of the press, the like of which censorship, India has never known, has made it necessary to say that no opportunity should be missed to emphasize the vital importance of freedom of speech and expression, which includes freedom to dissent in a free democracy like ours. And any encroachment on such freedom should be resisted by every legal means made available to citizens by our Constitution. For, an injury to one citizen, or to one newspaper, is an injury to all

citizens and to all newspapers.

There is a situation in which the right to information is important to protect the personal freedom of the citizen. From the point of view of the protection of the fundamental right to personal liberty, when it comes in conflict with the functions of the state or other individuals, there is a defined provision under the Constitution by way of right to information:

22.(1) No person who is arrested shall be detained in custody without being informed, as soon as may be, of the grounds for such arrest nor shall he be denied the right to consult and to be defended by a legal practitioner of his choice.

(2) Every person who is arrested and detained in custody shall be produced before the nearest magistrate within a period of twenty-four hours of such arrest excluding the time necessary for the journey from the place of arrest to the court of the magistrate and no such person shall be detained in custody beyond the said period without the authority of a magistrate; (5) When any person is detained in pursuance of an order made under any law providing for preventive detention, the authority making the order shall, as soon as may be, communicate to such person the grounds on which the order has been made and shall afford him the earliest opportunity of making a representation against the order.

On examination, these provisions are more in the nature of procedural requirements to be followed as valuable safeguards for a fair process of law. The accused gets the right to be informed of the grounds of arrest, to consult a legal expert of his choice and to arrange for his defense, and to be brought before

a Magistrate within 24 hours. Although Articles 20 to 22 are negative in form, they are positive in effect, because by preventing restraint on the person, except under certain circumstances, they secure freedom of the person in all other cases.

Government and Information

The rule of law requires that the citizen should have full information of the democratic processes and decisions that are bound to affect him so that he has an opportunity to interact and contribute to the processes of decisions and statutes. Impositions, uninformed and without justification and consent, would tend to become tyranny, reducing the citizen to slavery. As Norbert Wiener writes in *Cybernetics*, "any organism is held together by the possession of means for the acquisition, use, retention and transmission of information." Information has an important role to play in convincing and even in securing the consent of the ruled."

The government has not set up the means for citizens to have access to information. All laws and rules continue to be in the nature of impositions on people, just like to imposts loaded by British imperialism. There is no interaction with the people, there is no effort to justify the actions of the people. By denying information, the government has simply reduced citizens to the status of dumb driven cattle. This situation has to change.

There are many steps being taken by other progressive democracies. In the United States, all reports being deliberated by the government, legislature or senate are available and accessible to the ordinary citizen. Any citizen can write and ask for copies; they are generally given free of charge, and sometimes at nominal printing cost. All hygiene, health, housing, public services, and government services to the people are available free. In every state capital, they maintain a repository



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state capital, they maintain a repository of all government publications available and accessible to citizens.

In India, the relationship between the government and the citizen is pathetic. The only positive information the government feeds to the people is in the nature of bribery before the elections - some goodies and election promises. Once the legislators get elected they forget the citizens in their melee to get ministerial and gubernatorial berths and various positions from which public revenues can be tapped and privatised! The *mela* goes on. There is neither time, energy nor resources expended on educating the people. On the negative side, the state goes on notifying imposts of taxes and increases in prices of state monopoly services - posts and telegraph, telecommunications, railway fares, banking charges, local bus fares, etc. - without justification to the people, who are the ultimate owners of these public utilities. In the matter of information relations between the state and citizens, there is a complete breakdown of the channels and often misuse of the channels for the parochial ends of ruling politicians.

Government's Accountability

Another important area where there is total disregard of the citizens is in the matter of accountability and audit of government functions. Many of the government studies and reports are not available even to legislators, with the result that any logical action and corrective measures essential in a given situation do not get formulated. Scarcity of information tends to breed not only ignorance but also total incapacity for reforms and remedial measures.

The first step for the critical examination of government functions and use of resources will begin from the moment there is free access to information. The importance of giving

publicity to these audit reports provides the answer to the question of control of such waste and corruption. A French observer stressed :

"It is certainly useful that light, full light, is shed upon the conditions in which the taxes, which impose heavy sacrifices on every citizen are employed.... Light is the prerequisite of good order."

Ashok Chanda, former Auditor General, wrote sadly that "the growth of indiscipline, dishonesty and corruption both in administration and outside is distressing," and he called for "firmness, even ruthlessness in dealing with the cases." In the three decades that followed, the malady has worsened. Facilities for suppression of information to the public has served as an impenetrable shield for the growth of "indiscipline, dishonesty and corruption."

Official Secrets Act

An information obstruction shield has been created in the form of the Official Secrets Act, both to prevent the bureaucracy from providing access to information to the citizens and to prevent exposure of inconvenient and shady deals involving the ruling coterie. The Official Secrets Act has been used quite cynically to protect the reputation of ministers and bureaucrats, and to keep shady deals in the dark. In a society in which understanding the information is fractional, rarer still is informed and professional criticism. The few sources that make impartial reporting and comment have also been choked, increasing the helplessness of the citizen vis-a-vis the State.

The Official Secrets Act was enacted in British India in 1923 in order to control the flow of information from the bureaucracy to the people, and to frighten subservient bureaucrats who dared to speak. This act designed for alien control of the people has been

continued with added vehemence, after independence, as the new rulers also believed in suppressing the people through continued denial of information. It is here the matter has serious implications.

The entire law has arbitrarily armed the state to punish the bureaucrats and to instil a sense of fear in them. It has not defined the information that should be guarded secretly. Any person found guilty under the Act, will be punished with an imprisonment of three years and/or fine. Denying access to legitimate information to citizens, even those affected by government actions is indeed to be construed as a conspiracy of the government against its own people.

Investors and Business Entities

Then there is the matter of relationships between individuals and corporate entities where information has a vital role to play. Inside corporations too information has an important role to play.

In the relationship between the public as investors and the corporation as a business entity, there is need in so far as the right to information is concerned to establish the correct equations. These procedures have been defined by the Companies Act and other laws that require disclosure of information on what has been done with the investments of the public. These statutory information flows are intended to establish the confidence and relationships between the public and the business entities.

In the case of a public utility contract like the one between the government and a private sector enterprise like Enron, where the public as the consumer of power (who ultimately foot the bills) is very much concerned, there was a strange effort by both the government and Enron to



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blackout vital information on the investment and cost of power. It became necessary to use the force of law through the Court to extract elementary information on the investment and cost of power. It is a classic case signifying how a blackout of information can lead to a helpless exploitation of the public. We have similar cases of collaboration between the public and private sectors, in the matter of suppression and blackout of information to the public; some recent examples are the sugar and coffee scams.*

Substantial corporate frauds are committed when the corporate leaders are shielded through political connections, information flows to the public are choked through denial and misguidance, and when the public are not vigilant in the scrutiny of the activities of business entities. A research study in the United States in 1977 uncovered the fact that "30 percent of all American company liquidations were the result of fraud, FBI figures indicated that the bank losses from fraud were five times greater than losses through robberies and violence, and polygraphic tests on American shop and retail bank employees showed that between 40 per cent and 70 per cent had stolen from their employer," of course most of the resource being public money held in trust. Sadly, the management and employees of business entities sail in the same boat in the matter of embezzlement; the ultimate victims are always the general public. Unfortunately, there is no quantified survey of the extent to which the frauds are operating. Inadequacy of information and lack of vigilance are more prevalent in India than elsewhere in world.

Malfunctioning Media

The media in India has failed to perform its duties to the citizens - it

neither informs correctly, nor educates dedicatedly. The media in India does not have a mission. Their only obsession seems to be to become popular and to fatten their purses.

During the struggle for independence, it was necessary to give importance to political news, as political freedom was the cherished goal; but the irony is that the media is continuing to give importance to political news even after 50 years of independence. There is a total failure of the media in educating the citizens to perform their duties to the nation. The information that the media disseminates is so very useless and discursive that it hardly creates any participatory interest in the people, excepting for the political excitement or incitement they create. In all fields starting with politics, the only technique dominating the media presentation is hero-worship. Cine idols become real life heroes and are worshipped like gods.

The root cause for the malfunctioning of the media in India is that the entire media is owned by business tycoons, whose only pre-occupation is concentrating on placating the ruling politicians and fantasizing them to achieve their business ends. The second obsession, if any, is to misuse the advertisement tool and enhance advertisement revenues. Control over the media are fetters that ensure that the media are confined to the present set of functions and do not venture into any national ideals. There are some exceptions that try to publish limited criticism along with the tributes to their political heroes. If any one suspects my comments, all he has to do is to listen to the radio and TV news any day to find proof of my statements, or see any issue of the many magazines published in this country.

Simply because a person is endowed with financial resources and an urge to enter the media, does not

give him the licence to do whatever he likes to the detriment of the public interest. Freedom of expression does not give freedom for licentiousness. Either a self-imposed code of conduct or an external code of conduct is necessary. It is here there is need for an independent review of the functioning of the newspaper. As observed by the Supreme Court in a case reviewing the levy on newsprint:

"The Government should strike a just and reasonable balance between the need for ensuring the right of people to freedom of speech and expression on the one hand and the need to impose social control on the business of publication of a newspaper on the other ... the government must at all material times be conscious of the fact that it is dealing with an activity protected by Art. 19(1)(a) which is vital to our democratic existence."

Suppressio Veri Suggestio Falsi

This is the dictum which is widely prevalent in India. To begin with, there is a continuing effort to give the minimum information as required by the letter of the law and not to give maximum information taking into consideration the spirit of the law. Suppression of truth and implantation of falsehood (*Suppressio Veri Suggestio Falsi*) takes place in all relationships:

- Between the state and the citizen;
- Between the corporation and the investors and the public;
- Between the state and the corporation and the consumers;
- Between the management and the workers;
- Between every possible relationship where there is scope for vested interests and siphoning of benefits.

Suppression of truth has become a dictum in the functioning of the private sector, particularly as the corporate

*This was written in October 1995, before the epidemic of scams broke out!



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resources at the command of the private sector find application to serve the private needs of those at the helm. There is little that can be done to curb this tendency to appropriate public funds. As an effort to control this suppression of information, an effort was made in Japan by certain parties to acquire one share of each company, study the annual reports, and expose the companies at the annual meetings raising inconvenient questions which will bring out the shady side of the business. Very soon businessmen conquered the situation by buying the silence of the inquisitors who raised inconvenient questions. *Suppressio Veri* reach the summit in the process.

Instruments of Communication

Technology continues to add to the instruments that establish commu-

nication among the people - private, public and universal. There are a variety of telecommunication facilities, computer and E-mail facilities, world wide web services. These support the conventional media services. The main problems in these facilities are that they are costly for the common man, and the infrastructures are still held by the government inefficiently; inadequacy of education serves as another serious hurdle to understand facts.

In order to satisfy the people's desire for information, I suggest :

- Access to all government information to the public should be made easy and inexpensive by establishing information centres in all states and the State should have no right to exercise any discretion on whether or not to make available any

information or report to the public or not. The common man should have the right to information on all matters of concern to him.

- The media should make available raw and factual information to the public rather than the coloured views of the vested interests and their commentaries.
- Instruments and systems for information flows, such as libraries, media and communications should be further developed and expanded.
- Technology and equipment that facilitate the flow of information should be made inexpensive through state subsidies if necessary.

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Right to Information and Accountability of the State

V. M. Tarkunde

The purpose of this article is to point out that even under the present defective system of parliamentary democracy characterised by a party system and representative government, the accountability of the government to the people need not be confined to the day of voting in a general election.

When democracy was introduced in Europe at or about the time of the French revolution, it took the parliamentary form characterised by a representative government. In parliamentary democracy, people are ruled by political parties elected by them once in four or five years. Obviously, such representative governments establish, at best, "rule for the people" and not "rule of the people." The people under this system have power in their hands only on one day in four or five years, the day of voting in the general election. Once they cast their votes, power slips away from them and passes to the successful political party or

parties. Thereafter, till the date of the next general election, the people remain powerless for all practical purposes. In such a system, the government is accountable to the people only on the day of the general election.

Democracy of this type is essentially weak and superficial, and is liable to be overthrown by an ambitious party leader. It was overthrown in Germany by Hitler in 1933. In India also, democracy was overthrown when an emergency was declared on 25th June, 1976 and it was merely as a result of a miscalculation by Mrs. Indira Gandhi that a general election was ordered by her at the end of 1977. Democracy

was restored in India largely as a result of an accidental mistake committed by the supreme leader.

Partyless Democracy or Gram Panchayats

M. N. Roy was in Europe when fascism overthrew democracy in Italy and Germany. He was acutely conscious of the shortcomings of parliamentary democracy. He did not regard parliamentary democracy with its paraphernalia of political parties and a representative government as a genuine democracy at all. For him, democracy meant "rule by the people", a rule in which power would remain vested in the people and would be

Means as well as ends should be good. Indeed, ends are in the hands of God, but we are responsible for the rightness of the means we employ. We are not responsible for ends attained, but we are fully responsible for the means we employ.

- Rajaji



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exercised by them from day to day. He also realised that unorganised and 'atomised' individuals would be powerless for all practical purposes. He, therefore, advocated a radical decentralisation in such a way that power would be vested in small republics which he called people's committees and which may now be called *Gram Panchayats*. He was of the view that such people's committees should be the main repositories of the sovereign power of the people and that they should constitute the foundation of a genuinely democratic State.

Being of the view that the very function of political parties is to deprive the people of the power which belongs to them and to concentrate it in the hands of the party leaders, he was of the view that the party system is not consistent with a genuine democracy. He was also of the view that the struggle for power between political parties would vulgarise the whole process of politics and would make it unworthy of decent people. Jayaprakash Narayan, being a believer of *Gram Swarajya* propagated by Mahatma Gandhi, agreed with M. N. Roy and popularised the idea of partyless politics. Roy and J.P. were of the view that the people's committees (*Gram Panchayats* of today) would sponsor their own candidates for higher legislative bodies, get them elected, and the representatives so elected should be liable to be recalled when so required by the people's committees which had sponsored them.

It is not the purpose of this article to describe in detail this paradigm suggested by M. N. Roy and popularised by Jayaprakash Narayan. It is enough to say that today in India the party system as a whole has become highly unpopular and that quite a large number of grass-root activists who are not interested in party politics are working among the people to help them improve their conditions of life. Some of them consciously desire that even-

tually political power should go to the people and remain in their hands.

It is true that the people will not be able to retain power in their hands unless they become conscious of their natural urge for freedom, give up blind faith, learn to rely upon themselves, appreciate the value of rationalism and recognise the importance in social life of the moral values of equality and brotherhood. This cultural progress will take some time, but the present degeneration of the political system and the growing unpopularity of party politics have increased the chances of the establishment of a partyless democracy at some future time which may still be quite distant.

Making Governments Accountable

The purpose of this article is to point out that even under the present defective system of parliamentary democracy characterised by a party system and representative government, the accountability of the government to the people need not be confined to the day of voting in a general election. Socio-political developments have taken place, mostly after the passing away of M. N. Roy which can make the established government answerable to the people, at least to some extent, even during the interval between two general elections. It is necessary for social activists interested in democracy to strengthen these socio-political developments.

One such development is the growth in the country of the consciousness of human rights and civil liberties and the recognition of their vital importance. Popularity of human rights and civil liberties and the recognition of their value by the public not only make it difficult for a potential dictator to overthrow the democratic apparatus and establish a dictatorship, but also restrict the tendency of the government at various levels to act in an unjust and arbitrary manner. To that

extent, the movement for human rights and civil liberties helps in strengthening democracy and increasing the government's accountability to the people.

Public Interest Litigation

The second development in the same direction is that of the system of public interest litigation. In the late 60s and 70s, courts in America and England gave up the legal principle that only a person who has himself suffered from a wrong can approach the court for redress. It was recognised that any individual genuinely interested in a public cause can approach the court for redress on behalf of the affected section of the people. This extension of the right to approach the court was enthusiastically accepted by some of the Judges of the Supreme Court of India, who recognised the value of public interest litigation for promoting social justice in our country. Although

"Don't Tell Us..."

Sometimes superiors are so determined to hear good news that they go to great lengths to avoid being confronted with the bad. When Thiokol engineers called NASA the night before the tragic Challenger launch to warn of the O-Ring problem, they were instructed: Don't tell us that - think it over and tell us something else, or we might cancel your contract.

Why did the official react that way? Because President Reagan was scheduled to make his State of the Union speech the next night and was planning to talk about the first teacher up there in space. Obviously, NASA was less likely to be mentioned if the morning launch had been postponed...

Charles Peters,
The Washington Monthly



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the system of public interest litigation has been occasionally abused by some ambitious or unscrupulous litigants, it has been on the whole extremely useful in helping the poor in redressing injustice and in exposing cases of corruption. The system has undoubtedly increased the accountability of the State to the public.

National Human Rights Commission

The third factor which has increased to some extent the accountability of the State was initially underrated and even ridiculed by some social activists, but has proved to be of considerable value in increasing the transparency of the State and making it more accountable to the people. It consists of the setting up of the National Human Rights Commission which has been established under the Protection of Human Rights Act. Although the powers of the Commission are restricted under the provisions of the Act, it has been entertaining several complaints, conveying them to the government and giving publicity to the action taken thereon. It has been helpful otherwise also for increasing the transparency of the government and making it comparatively more accountable to the people.

People's Right to Know

Another development which may go even a longer way in the same direction is the recognition of the people's right to know. The Supreme Court has already observed more than once that the right to know is an essential part of the right of freedom of expression embodied in Article (19)(1)(a) of the Constitution. What is necessary, however, is not merely to recognise the people's right to know what the government does, but to pass a law making it easy for the people to exercise that right. The U.S.A. has already passed the "Freedom of Information Reform Act, 1986". It seeks to amend and extend the provisions of previous legislation on the same subject. We in India require a comprehensive Act which can

be used by the people, including social activists and investigative journalists, to secure information on topics of either individual or public importance.

It is a matter of great satisfaction that the Press Council of India is organising a Seminar on the Right to Information and that a part of the time of the Seminar will be reserved for the preparation by the participants of the Seminar of a "Bill for Access to Information." If the Press Council of India succeeds in getting prepared a Bill providing for the people's right to information, it will undoubtedly be rendering a unique service to the country.

As a part of the people's right to information some of the existing Indian laws are required to be modified or deleted. One such provision which requires complete deletion is Section 18 of the Atomic Energy Act, 1962. This provision enables the authorities concerned to refuse to disclose any information regarding the existing or proposed plants for producing atomic energy, the method of operation of such plants and the process operated or proposed to be operated in such plants. One effect of this provision is that the public is prevented from getting any adequate information regarding the suitability or otherwise of establishing an atomic energy plant in a particular locality. Information is often suppressed even when leaks of harmful atomic gases take place in plants which are currently running. Such leaks may cause incalculable damage to the people living in the locality but they are not allowed to be even aware of the dangers to which they are exposed. This provision deserves to be immediately scrapped.

A plethora of cases have recently come to light where the central and state governments and their top bureaucrats have acted in an arbitrary and illegal manner so as to misappro-

priate public funds to the extent of hundreds of crores of rupees. The public is keen to see that such atrocities are effectively checked and the guilty persons are adequately punished. The problem calls for a many-pronged attack. An adequate enactment providing for the people's right to know will be one of the effective remedies to deal with this intricate problem.

JUSTICE (RETD.) V. M. TARKUNDE is editor of *Radical Humanist*. This article is courtesy *Radical Humanist*.

Paying the penalty for challenging the state

South African yuppies wouldn't be caught dead without one. Nigerian businessmen couldn't clinch deals without them. Even Zaireans, who don't have a functioning government to speak of, can enjoy the convenience of a cellular telephone if they can afford one. From Guinea to Madagascar, private companies have capitalized on the appalling services offered by state-run phone monopolies in Africa to introduce cell-phone networks. But not in Zimbabwe. There the waiting list for conventional services stretches to 100,000 names, and the government's phone system is so bad the Supreme Court says it violates the right to free speech. An ideal cell-phone market, right?

That's what Strive Masiyiwa thought. He has spent the last three years trying to set up Zimbabwe's first cell-phone service, and even signed up 5,000 subscribers. All he needed was an official OK. But despite its professed support for privatization and black empowerment, the government of President Robert Mugabe has blocked Masiyiwa at every turn. Today he is nearly bankrupt. "They're out to get Strive", says a Western diplomat in Harare. "They fear alternatives sources of power."

"This is not a battle against the government", he insists. "I exercised my rights as a citizen, and the sin I committed was to go to court to establish the correct legal position." His penance may be the loss of his business.

Joseph Contreras.

*COURTESY: Newsweek, July 29, 1996.

Rationally Speaking...

Hast Thou Reason?

G. R. R. Babu

The consolation lies in remembering the hero of last September - and the symbolic hope for the future - the illiterate cobbler, Dhuli Ram Arya. Dhuli Ram, thanks to his robust common sense, not only rejected the claim that Ganesh was drinking milk, but even demonstrated how his metal tripod could also 'drink' milk. It was he who alerted scientists at the National Physical Laboratory (on whose pavement he works) about the happening.

September marks one year since that sensational day when our whole nation, wilfully suspending disbelief, trooped to Ganesh temples and pooja

rooms to witness the idols 'drink' milk. It all started in the night of 20 September when all over North India well-timed anonymous telephone



calls were made to temple priests, informing them of the elephant headed God's awakened appetite. These calls made from India and abroad suggested that the priests too should attempt to feed the Ganesha idols in their temples.

Spreading Superstition

When spoons full of milk came into contact with the trunk of the idol, it did indeed seem that the milk was being drunk by the idols: Either it was sucked into the porous material of the statue due to capillary action, or the gullible failed to notice that the milk was actually running down the surface of the idols. Many were also blind to the detail that some enterprising priests had made channels to drain the milk away from the bottom of the idols, so that the 'miracle' could be worked over a long period. Over the

day, modern technology came to the service of ancient superstition as BBC, Star T.V., local Cable T.V. and telephones helped spread the astonishing news far and wide. By the evening of 21 September, normal life in the country was disrupted, offices had thin attendance and traffic jams ensued. Soon, milk, which was as short as commonsense, was sold by the spoonful, where available.

The VHP seized the opportunity to declare that it was an approving sign of the gods a few days before the beginning of the *Ekatmata Yatra* aimed at reaching a hundred million Hindus to sensitize them to their glory and to convince them of the political importance of establishing a Hindu State. Not to be outdone, black magic man and power broker Chandra Swami boasted that it was his invocation of the gods which was responsible for the miracle. Madan Lal Khurana, the then Chief Minister of Delhi, spent the entire day feeding Ganesh idols in Delhi.

Where is the 'Scientific Temper'?

In a country where life is still conceived in magical terms and where a vast majority believe in the efficiency of intercessionary prayer and expiatory baths, it would be futile to speculate if we could have been spared the embarrassment of being exposed as a primitive people, had the government initiated some prompt steps. In our country where the people manning the government themselves actively abet superstition, the constitutional exhortation [Article 51(A)(h)] to "develop

scientific temper, humanism and the spirit of inquiry and reform" is useless. When a small number of scientists did explain the high-school-level surface-tension physics behind the apparent 'miracle', T. N. Seshan, Chief Election Commissioner and one of the country's highest constitutional authorities, dismissed the explanation saying 'the tension is in their minds'. Interestingly, in the controversial yet-to-be-shown-in-India T.V. film *Gurubusters*, Seshan boldly declares to our disbelief: "I am not a jungle... I have a Masters in Nuclear Physics" and goes on to display a diamond studded gold ring 'materialised' for him by Satya Sai Baba and asserts that he see no contradiction between the Science he learnt and miracles of Satya Sai Baba.

The Indian club of the superstitious is peopled by the highest in the land. V. P. Singh's favourite bureaucrat was also his court astrologer; Justice V. R. Krishna Iyer's necromantic ways are well known and he also believes that Maharishi Mahesh Yogi's Transcendental Meditation helps

It is amazing how prime ministers, like old married couples, become indistinguishable from each other. It is not just the balding pate and pouting visage I am thinking of, but the host of astrologers and *pujaris* who continue to flock to 7 Race Course Road, irrespective of the change of guard.

Sheela Reddy in the *Asian Age*,
21st August, 1996.

reduce crime rate as well as help people levitate. Shri Shankar Dayal Sharma, President of our Secular Republic had no compunction visiting at public expense and with full retinue Satya Sai Baba. His Excellency also visits many others who thrive on the 'carriage of superstition'. In October last, Prime Minister Narasimha Rao delayed his return from the USA until the passing of the 'Total Solar Eclipse' in India. In the USA where Rao sought refuge from the evil effects of the eclipse, Mrs. Hillary Clinton consults Mahatma Gandhi's spirit through a medium.... the Mahatma himself believed that the 1932 Bihar earthquake was due to the sin of untouchability! Brilliant scientist Shri Bhagvantam was exposed by A. T. Koor as an agent of Satya Sai Baba.

It is not just the comic relief of frog marriages, sympathetic rain dances and officially sponsored havans that constitute popular superstition in our country. Entire communities are bogged down by absurd rituals and the baseless terrors of rahukulams. Disastrously, blind faith in charms and mantras kills thousand of Indians every year because of untreated snake bites and other treatable problems. Every year a few hundred are killed, tortured, or raped by villagers because of suspicion that they could be witches or sorcerers, or because a sorcerer has accused someone of having cast a malignant eye. News of human sacrifices is on the rise. Primitive villagers all over India are terrified by the occult and witchcraft. Truly did Ingersoll say more than a hundred years ago "to believe in spite of evidence or without evidence, to believe that the world is governed by chance or caprice, to disregard the true relation between cause and effect, to account for one mystery by another, to believe in miracles, spells and charms, in dreams and prophecies... The foundation of superstition is ignorance, the superstructure is faith and the dome is a vain hope. Superstition is the child of ignorance and the mother of misery."

Vested Interests

In India, there is a vested interest in the perpetuation of ignorance and

encouragement to superstition. At Sabarimala, rationalists had caught red handed, the priests of the Ayappa temple and electricity department officials who fraudulently lit the *makarajyoti* while making the devotees believe that the fire of the distant hill was divinely ignited. But Kerala's communist government refused to put an end to the fraud: Apparently, the millions of pilgrims who throng to Kerala every winter to witness the "miracle" brought in valuable revenue for the state and that was more important than people's sanity.

The violence and aggression of the communal parties, the terrors that they have unleashed on the country are contemporary vindications of Voltaire's warning that "people who believe in absurdities also commit atrocities". The confederacy of the intolerant, the orthodox and the superstitious is the most dangerous enemy of a modern democracy whose foundations and progress can only be ensured by widespread scientific temper, unobstructed free inquiry and open dissent. For modernising orthodox Indian society and for making people appreciate the modern democratic values, critical intelligence must be promoted, not obstructed. No society which disallows a free inquiry into its beliefs and received wisdoms has ever progressed; not blind, unquestioning and unquestionable faith, but the creative application of reason is the way to greater and long lasting happiness in societies.

As seen last September, in a society where the staple of all its religions is miracles, to work a vast population to frenzy in the name of a miracle is a simple thing and that does not augur well for our fragile democracy. The consolation lies in remembering the hero of last September - and the symbolic hope for the future - the illiterate cobbler, Dhuli Ram Arya. Dhuli Ram, thanks to his robust common sense, not only rejected the claim that Ganesh was drinking milk, but even demonstrated how his metal tripod could also 'drink' milk. It was he who had also alerted scientists at the National Physical Laboratory (on

whose pavement he worked) about the happening.

We have received better training than him and are theoretically better equipped and have a greater responsibility of exercising our educated minds and of alerting people around us about a possible repeat of the fraud. So, the next time we are told of a menstruating goddess, a bloody eyed Mary or an ash producing Baba, is there a way of responding sanely to the paranormal or incredulous claim? Marcus Aurelius (121-280 Christian Era) is surprisingly contemporary: "Hast thou reason? Why then dost not thou use it? For if this does its own work, what else dost thou wish?"

MR. G. R. R. BABU is the General Secretary of the Rationalist Association of India and of the Indian Humanist Coordination Committee.

Holy Intervention

With the fledgling BJP government in the danger of being brought down, its religious-minded fans in Orissa are believed to be trying all kinds of tricks to keep the party in power. The grapevine has it that prayers are being offered to Lord Jagannath in the holy town of Puri to save the saffron government.



Interestingly, the Janata Dal and Congress leaders in the State are also equally strong devotees of the Lord. Said a senior Dal leader, "If it is true that they are asking the Lord to save the BJP government, we will seek its blessings to topple it."

The question being asked now is this: "Is the principled politics to expect Lord Jagannath to answer to an appeal that is being made by too many MPs?"

Courtesy: *The Pioneer*, May 22, 1996.

Free Trade is Multilateral

Protectionism is Neo-Mercantilism

Otto Count Lambsdorff

There has been a long tradition of mercantilism at the expense of South Asia. A Roman emperor even banned all imports of Indian spices and cloth in order to stop gold disappearing out of Rome along the silk road. And the days of imperialism and colonialism were marked by very one-sided trade links at the expense of South Asia.

This is the second of the two talks delivered by former German Minister for Economic Affairs, Otto Count Lambsdorff, during his visit to India in January this year. The first of these, "Protectionism - The Modern Face of Imperialism" was published in the April-June '96 issue of Freedom First - Ed.

Is it right, given the end of the Cold War, the breakdown of the Soviet Union, and the road clear to a new world order to say today "Mercantilism is dead, long live multilateral free trade". I am afraid it isn't. Mercantilism is alive and kicking. Protectionism, strategic trade policy, bilateralism and regionalism in trade, and state industrial policy are its modern forms. Like the mercantilists of long ago, its advocates are trying to hoard prosperity at home by selling goods and services abroad whilst avoiding imports.

Countries aren't Companies

Many people regard the interpretation of international trade as a competition between nations as progressive. They believe that following the collapse of the eastern bloc, economic confrontation is replacing military confrontation. Strategic trade policy is replacing military strategy. They believe that like war, world trade consists only of winners and losers. They think it's a struggle for supremacy in a cold peace. The advocates of a strategic trade policy regard their nation as a company that sells goods, earns profits and conquers markets. Another company's success in the market means success for the competition. They think that only one company can survive in the end. In their

view, only one country or group of countries can emerge as the winner in world trade.

However, the reality we observe is different. Countries aren't companies. The community of exporting nations is not pursuing predatory competition in the world's markets. Where are the states which, after initial success, have been driven bankrupt by "competitors"?

International Division of Labour

Don't we rather see how more and more nations - such as the four not-so-little tigers of south east Asia - are becoming successful traders, and not only the leading industrial countries? Hasn't India, for example, seized the great opportunity offered by the use of new computer and information technologies in the field of modern services and software? Doesn't our prosperity increase throughout the world as world trade grows?

The oh-so-simple calculation made by strategic trade policy is incomplete and contains a number of unknowns. Economically, strategic trade policy is without foundation. Trade is not a zero-sum game. One side doesn't lose what the other gains. Trade theory has known about comparative cost advantages ever since Ricardo.

Improving the international division of labour serves everyone's success. The economists of the world learnt this in their first semesters. But, once our exams are over, we all too frequently forget the clearly formulated advantages of international trade. And yet the theory has proved itself many

times over in practice, not least in the case of the European Union. Its internal market has given all the member states more growth and economic stability than ever before achieved in Europe.

Indirectly, strategic trade policy does very much recognise the superiority of free trade. Why else are so many countries endeavouring to open up large regional markets by creating free-trade zones? The only thing is they stop half-way. If even bilateral free-trade zones promote their members' prosperity what sort of positive impact would we be bound to derive from multilateral free trade for all?

The focusing of strategic trade policy on the triad of Japan, the US and Germany reveals how backward and limited this approach is. It corresponds neither to the geopolitical changes we are observing, nor to the trade policy changes, which we describe as the 'globalisation of markets'. What role would the concept of the triad allocate, for example, to South Asia - India, Srilanka - or to China, South Africa, Latin America, Australia and New Zealand? How would it integrate Russia into the world economy? Strategic trade policy has no answer to these questions - questions that are vital for peace and prosperity for us all.

Ambivalent Signals

Despite many convincing arguments, the signs of incipient world wide liberalisation of trade are far from good. I am sceptical about liberal world trade because of what I saw when the Uruguay Round was concluded and ratified. Individual national interests were

all too frequently to the fore. And Europe was no model pupil either. For example, the so-called Blair House compromise on agriculture became a central political issue which almost caused the downfall of the European commitment to free trade. As though Europe was an agricultural country and not one of the world's greatest industrial regions. All this political manoeuvring produced a most ambivalent signal for world trade.

Another reason why I think it is right to be sceptical about free trade is that, even after the ratification of the Uruguay Round, the protectionists still have plenty of instruments up their sleeves. Integration in Europe brings with it a risk of isolation from abroad. Agriculture policy is one example. The initial success in the GATT contrasts with a sophisticated system of quotas, tariffs, market surpluses and exports at below world market prices. Similarly, Washington has at its disposal a wide range of highly protectionist tools, from the excessive use of dumping and countervailing duties through to the re-implementation of the Super 301 Act. And India also relies too little on open markets and too much on protectionism. For example, it has a negative import list. There is virtually a total ban on imports in the consumer goods sector. Exporting textiles to the whole world, whilst banning domestic imports, is based on mercantilist thinking.

Globalisation & Regionalism

Bilateral agreements are no replacement for multilateral free trade. The trade talks between Washington and Tokyo or other countries are by no means pleasing to, for example, the German eye. Especially as the US, for what are really domestic political reasons, is banking on strength and compulsion to force markets open. The Americans' rough methods should not met with approval. They clearly remind us of the historical connection I mentioned earlier between mercantilism and imperialism. The consequence of these trade talks is to make market access for other suppliers more difficult, if they don't actually block it. We need to open our markets not just bi-

laterally, but generally.

For the same reason, I am also concerned to observe the boom in bilateral free-trade zones. At the end of last year, 109 regional agreements were registered with the WTO. All the leading trading nations are members of one or the other of these agreements. Whether it be APEC, AFTA, NAFTA, ASEAN, MERCOSUR or TAFTA - a transatlantic free-trade zone currently under discussion; the one-side market opening to the benefit of the contracting parties creates new trade barriers for outsiders. Even if it is only that the bilateral reduction in trade barriers makes imports easier amongst the countries involved, whilst leaving the trade conditions for others unaltered. It may even be that trade within the bloc increases. But the international flows of trade are diverted and distorted. Each internal preference contrasts with a whole range of discrimination against the outside world. The various free-trade zones are covering the world with a confusion of country-of-origin rules, sector-specific regulations, preferences and tariffs. The exporter, both inside and outside the trading bloc, is confronted with something as clear and comprehensible as a plate of spaghetti a view shared by Jagdish Bhagwati, of Columbia University. Protectionism and bilateralism will make losers of all trading partners. Regionalism in trade has nothing to do with globalisation.

Protectionist Devices

In the debate about the links between trade and environmental and social standards, governments have to strike a difficult balance between the principal of open markets and isolation. For example, many American opponents of the North American Free Trade Agreement with Mexico pointed to the possibility of massive job losses in the US and serious environmental damage. Two years on, that hasn't happened. Anyone who merely bandies about words like environmental or social dumping without distinction is not doing his cause a favour. All he will do is supply protectionism with new arguments for its continuation. But protectionism is neither socially

acceptable nor environmentally friendly.

The abolition of slavery, the availability of education for all, the right of assembly and free speech for all workers are all demands vigorously made by Liberals. They must be achieved, and not only in the context of the WTO.

Free Trade is Fair Trade

I must admit that I have certain problems with the use of labels - such as the Rugmark initiative or the Carpet Export Promotion Council's Kaleen trade mark - to combat child labour, because it isn't easy to differentiate and monitor them. However, the information can help to stop a general collapse of sales of Indian carpets abroad by providing better information. The limit for demands to the WTO needs to be set where international pressure for higher wages, shorter working hours and every other standard you can think of diminishes countries' chances to develop their economies and societies themselves. Why did the developing countries reject the inclusion of social clauses in the Uruguay Round? Why is UNCTAD warning against neo-mercantilism? Why is it saying that social standards in trade damage the whole world economy? Why do even Spanish exporters feel that German environmental rules create trade barriers for them?

Anyone who over-emphasises environmental goals and social issues risks losing the advantages of free trade, greater prosperity, income and employment. Only free world trade is fair.

International trade policy is not the only hiding place for mercantilist thinking. Protectionism also lurks in policies that are supposedly purely national. The calls for *dirigiste* industrial policies fit in only too well with strategic trade policy. Here, too, military thinking is trying to justify something that will allegedly bring economic benefits. How else can we regard the dispute about sales of Airbus or Boeing aircraft, other than in terms of a military struggle for power? How else can we understand the battle for large

public sector orders for national firms?

Dirigiste Policies

Why do Heads of State become salesmen? Alleged key sectors are supposed to be supported in order to create advantages for national industries. Government intervention is supposed to replace corporate decisions. The advocates of *dirigiste* industrial policies want new subsidies to give birth to the industries of the future. Strategic alliances are forged to form cartels in order to use the restrictions on competition to shape the future. I have no time for that sort of policy. Agencies, bureaucrats, politicians and lobbies make their decisions in line with the political mood, prestige, their own feelings, and the media impact. They prefer large companies. They place smaller companies and the individual entrepreneur operating at his own risk and on his own initiative at a disadvantage.

They enlarge the public sector, which displaces the market. *Dirigiste* industrial policies are conducted at the cost of the tax payer and the individual. *Dirigiste* industrial policies distort national prices and international exchange rates. *Dirigiste* industrial policies are thus clearly opposed to the aims of world trade and open markets.

Only the market is in a position to collect and coordinate a vast range of information. Only the market allocates economic success and economic responsibility properly.

Free trade and globally open markets, as the core of a new world economic system, make high demands. It is therefore vital for the WTO to be developed into an international system of competition. The pressure for globally open markets and thus more market economies throughout the world must emanate from it. Japan, Germany and America must support this approach.

South Asia's Opportunity

The attempt to build a new world economic system on the basis of mercantilist ideas is not only wrong, it's dangerous as well. Mercantilism and

imperialism have always gone hand in hand. Trade was the means of oppression and exploitation.

South Asia has often felt the effects of this in the past. As has the United States - there were good reasons why its independence began with the Boston Tea Party! In the days of mercantilism, war and conquest were an inevitable consequence of the underlying economic ideas. These were the normal and obvious form of exploitation. As a counter-movement, the free-trade movement had not only an economic, but also a moral thrust.

I regard my advocacy today of multilateral free trade and my opposition to strategic economic policy as part of this tradition. The triad and bilateral and trilateral approaches to trade represent a political and economic restriction on international relations.

That is wrong; politically and economically, in theory and in practice. Reducing the tariff barriers and obstacles to trade on all sides will create the chance of increased prosperity, greater economic dynamism, more progress and improved quality of life.

Multilateral trade without protectionism also provides an opportunity for a new and more liberal world system. After all, it and a new world economic system are two sides of the same coin. Everything else is discrimination and contains the seeds of instability and conflict.

South Asia has a largely untapped economic and political potential. Developing it is a great challenge which must be tackled positively in the interests of mankind. Free trade is the central precondition if south Asia is to assume an appropriate role in the new world economic order.

DR. OTTO COUNT LAMBSDORFF was Minister of Economic Affairs in the Federal Republic of Germany. He was leader of the Free Democratic Party and is the Chairman of the Friedrich-Naumann-Stiftung.

Those who expect to reap the blessings of freedom must undergo the fatigue of supporting it.

Thomas Paine.

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The Eleventh Elections to the Lok Sabha

More Questions than Answers

A half day seminar on the recent national elections, sponsored by the Department of Political Science, SNDT University and the Rajaji Foundation was held on May 27, 1996. A number of social scientists and activists participated in the seminar.

Professor N. H. Sanghvi and Mr. Arvind Deshpande initiated the discussion. Questions were raised on issues relating to political institutions and changes in the political system; values and ideology dominating the country in recent years and which are likely to continue to do so in the coming years.

The following is a brief report by Freedom First Associate Editor, Dr. R. Srinivasan.

The near decimation of the Congress party and the decreasing relevance of the national parties, which was witnessed during the year has been the culmination of a process, beginning in 1989; the number of parties in the Lok Sabha has almost doubled from 14 (1989) to 27 (1996). Progressively, national parties have been securing fewer seats. State based parties are emerging as dominant parties and a sizeable number elected from parties that were recently recognised. No national party has a presence in all the states - in some they have only a token presence.

Is the national party system, as we have known them, fast becoming extinct? Can parliamentary democracy survive in a situation where coalition governments are formed on an *ad hoc* basis, just managing to survive from one day to another?

The attempt to find an alternative to the Congress which began with Rajaji in the 'sixties and later attempted by J.P. is, in an ironical sense, sought to be fulfilled by the possibility of the BJP emerging as a national force - and even this is only an attempt at a substitute which may not succeed. It is

interesting to note that while in the states, a viable dual party system seems to be emerging, at the Centre itself, it is eluding the country. This may lead to an unstable Centre. If we are to benefit by the experience of neighbouring countries, we as citizens, activists, social workers and others will have to look up to the President of our Republic to provide the leadership. Mercifully, the army has so far kept itself aloof from politics and it should continue to be so. Both the judiciary and institutions like the Lok Pal will have an important part to play.

A look at the emerging scenario is again illuminating. The Congress in its present form is beyond resurrection. The BJP does not nationally and electorally seem to have a following (in spite of many circumstances, such as the Pakistani factor, the post-Partition memories, the conservative sections' support). The BJP may not be allowed to liberalise its hard core ideology. A moot question is that of the possibility of a coalition of the Congress and the Janata Dal.

How should one view the outcome of the elections to the Lok Sabha, if perceived ideologically? It can be argued that the public by and large had voted for economic liberalisation and against *Hindutva*. But there was nevertheless a blunting of ideologies - unlike in the earlier period, when one knew of the value positions of Nehru or Indira Gandhi. We know little of the stand of the new leadership, whether it be of Laloo Prasad, Chandrababu Naidu or Karunanidhi - assuming we accept the strategies for political survival that they display. Against this, it was also suggested that the vote for a multi-party system and for pluralism clearly questioned the *status quo* and what liberalisation implied.

Are the electors becoming polarised ideologically in a communal sense? As in South Africa, 70% of the popu-

lation reflects OBC preferences along with scheduled castes and tribes, 16-19% represent the upper castes and 10-12% muslim alignments (in South Africa, 70% are blacks, 16-19% whites, 10-12% Asians). We need to adopt a third world perspective to understand Indian politics. Supplementing this, it was pointed out that we should be chary of identifying the BJP as fostering communal politics. The political parties of the Hindi heartland too have pitted caste against caste. The ideology of caste hegemony is as dangerous as the *Hindutva* hegemony and both are fraught with dangerous possibilities.

Regional politics has come to dominate the national scene. How are we to ensure that the regional based Member of Parliament brings to bear an all-India consciousness and awareness on political questions? Regionalisation of national politics may well happen in the decades to come. Regionalism has become important for another reason in that, that political mobilisation of a viable sort is taking place only at that level - the support base that one gets there is not replicated elsewhere. Regional politics has also indicated that coalition politics that has come at the centre may well be the future politics of India. States

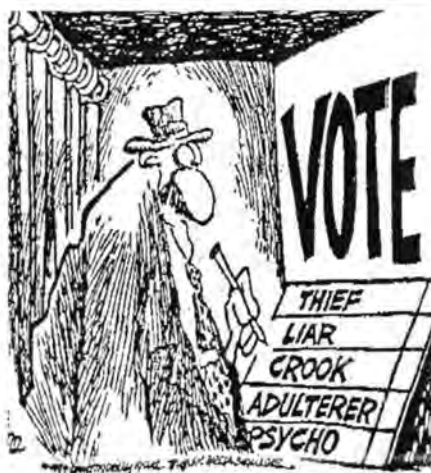


ILLUSTRATION COURTESY: Freedom Network News.

like Kerala have experimented with this type of politics for a very long time. European states too might give some guidance.

There remains some unanswered questions which are important. One is what do we do with the persistent problem of criminalisation of politics - now that they have entered the sacred political portals. Do we have the views of the rural sections of the population at all heard as of the younger voters? Their voices seem to be muted totally.

Decentralisation has yet to take place - the fact that regional leaders

have come to play an important part does not automatically mean that democracy has reached the grassroots. The regional tyrant may be more dangerous than the one in distant Delhi. Is the BJP treated as an outcaste as alleged by it? Why should people in an overwhelming majority suffer from a sense of minority complex? The BJP does suffer from this illusion. The Constitution allowed the Communist parties to rule in the states earlier. Now the BJP has had a chance and it has been compelled by its office to soften its stand on issues which one would have thought to be inflexible and final.

The leaders have to respond more positively, particularly those occupying privileged positions. Do the constitutional arrangements meet the needs of the people today as well as it did in the 1950s? Also, do we need to reexamine the issues of mandates? Do political parties need clear mandates to be shortened to be understood immediately? Are they relevant at all for the people who went to the polls? Or were bread and butter questions important and decisive?

The End of One-Party Dominance

Nitin G. Raut

For a democratic country of nearly half-a-century vintage, we as a people have been in seclusion from many a process of decision-making where vital public interests are involved. Almost every public transaction has been tainted with allegations of people in positions of power feathering their nests.

The 1996 Parliamentary elections have changed the political map of India. As against a monolithic ruling party and a fragmented Opposition, it has ushered in an era of coalition government. While earlier, the Congress relied on regional parties for power, today, a coalition of regional parties is relying upon the Congress to remain in power. The 1996 elections have also seen the emergence of the Bharatiya Janata Party as the largest single party, the decline of the Congress Party and the rise of regional parties at the Centre.

If this is the scenario, the post-election alignment and realignment of political forces brings into sharp focus the fickleness of political parties, their obsession with non-issues and over-emphasis on certain ideological issues which if anything reflects the bankruptcy of the political leadership in India. For almost five decades, the political parties have subordinated the welfare of the people and national security in their greed to capture power. And the race for power, in 1996, was no different.

A Mandate Betrayed

In the run up to the polls, corruption and accountability in public life were predominant issues. Both the BJP and the United Front-Left Front combine attacked the Congress Party for rampant corruption. The 'hawala' transaction, the Jharkhand Mukti Morcha bribery case along with the equally infamous Rs. One crore suit case bribe to P. V. Narasimha Rao. St. Kitts and Bofors had made corruption the main issue. The regional parties berated the Congress for progressive erosion of States' autonomy, thereby weakening the federal structure. The

UF and the Communists, by forming a government with the support of the Congress, have betrayed the anti-corruption mandate.

True, the election did not give a clear mandate to any party, but it was essentially anti-Congress. The President invited Atal Behari Vajpayee as the leader of the largest parliamentary group to form the government at the Centre, who in true statesman-like spirit, kept aside contentious issues and highlighted issues like eradication of corruption, electoral reforms, continuation of economic reforms and transparency in public life - all issues which ought to have invited broad consensus and unity of purpose. But the BJP failed in marshalling a working majority. It raised the predictable storm. Not for the UF-LF was corruption any more the issue, as much as keeping the BJP out of power, even if it meant hobbling with a crutch provided by the Congress. Instead of rising to the occasion, the UF-LF, Congress and their allies like the Samajwadi Party and the Muslim League, raise the spectre of communalism.

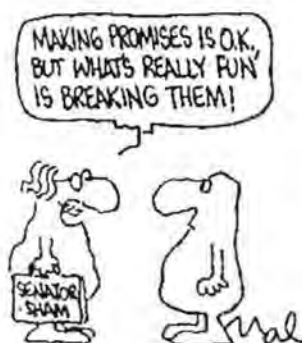


ILLUSTRATION COURTESY: National Review.

Credibility Crisis

The 1996 elections have also afflicted the UF-LF and its allies with a credibility crisis. The UF-LF have no qualms in seeking the support of the Congress even though all its constituents had severely indicted the Congress for rampant corruption. In aligning with the Congress, the UF-LF have forfeited their claim to fight corruption. An essentially anti-Congress mandate has been set at naught by the UF-LF. As for the regional federal front, the Telegu Desam Party, Asom Gana Parishad, Tamil Mahila Congress and the Dravida Munnetra Kazhgam - their conduct belies their resolve to fight corruption. After having accused the Congress of eroding States' autonomy, they sustain themselves in power with Congress support. If at all its anything, it is the BJP factor that unites the UF-LF and the Congress. It does not lie in their mouth to call the BJP communal when they have aligned with rank communal parties like the Muslim League and the Majaheedeen-Ithhadul Muslimeen.

The news blackout imposed on Ramkrishna Hegde *a la* Emergency style on Doordarshan by the UF-LF government after his abrupt expulsion from the Janata Dal did not evoke a whimper from the UF-LF or those sections of the intelligensia who are otherwise so vocal on issues of civil liberties and freedom. And for that matter, neither did the Lajpat Nagar blast, believed to be the handiwork of Kashmiri terrorists, evoke any condemnation.



And I feel it's safe to tell you, now that the election is over, that everything my opponent said about me is true.

ILLUSTRATION COURTESY: National Review.

A Mandate for Coalition?

This election has also heralded an era of coalition government. Coalitions by themselves are not new to a democratic process or a threat to it. In Western Europe, coalitions have functioned smoothly and effectively. But has the UF government reached any level of political maturity? Till the other day, the UF constituents were crossing swords on issues like the water disputes and inter-state border problems. In the mature democracies of western Europe, a policy of consensus ensures that there is commitment to issues of national importance which transcends party loyalties. Germany, Italy, Belgium and Finland are examples where coalitions have worked. In India, however, trivialities, pettiness and non-issues dominate. Even issues like illegal immigrants are treated in a cavalier fashion. In fact, Defence Minister Mulayam Singh Yadav sees no harm in such mass immigration by aliens. For him, it is a process of evolution of a future confederation of India, Bangladesh and Pakistan. What the Hon'ble Minister misses is that these countries cannot even live like good neighbours to justify a confederation.

The UF-LF coalition is an alliance of expediency rather than on the basis of a commonality of views on policies. Its rule is at the mercy of the Congress. The Congress is only biding its time till its fortunes revive. For the Congress, the forthcoming UP assembly elections are going to be a test case and it will also determine the fate of the UF-LF government. The short-lived coalition of the Janata Party (1977-79) and the Janata Dal (1989) do not inspire any confidence that coalitions like the UF-LF can last long. There is no stabilising factor in terms of a dominant party which can control smaller groups. And the Congress, which is the largest group, has no stake in the functioning of the UF-LF government except to keep the BJP at bay. The coalition is riddled with internal contradictions. To what extent can the constituents reconcile their regional outlook and parochial policies with national interests remains to be seen. The absence

of any leader with national standing deprives it of any effective leadership. Instead, Prime Minister Gowda is dependent on regional overlords with no worthwhile national credibility. In an era of globalisation, the UF-LF government has no leader of world stature or one with a global perspective on vital issues like the Nuclear Non-Proliferation Treaty, the proposed Comprehensive Test Ban Treaty, General Agreement on Tariffs and Trade; of India's role in a post cold-war era with rapidly changing power equations in a virtually unipolar world.

While the life of the UF-LF government is a matter of speculation, the post 1996 period will be a transition which while ending the era of one party dominance, will make coalitions more cohesive and purposeful with a stress on pre-election programmatic alliances than out of expediency. Such alliances are more durable. In the late sixties, it was the Swatantra-Utkal Congress coalition. Today, likewise, it is the BJP-SS coalition in Maharashtra.

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Kudos to T. N. Seshan

The world's largest democracy has just gone through the process of election including the unbelievable efforts to form a new government in strife-torn Jammu & Kashmir. At the end of it all, one man emerges as the undisputed winner. He is none other than T. N. Seshan. Love him, hate him, but you cannot ignore him. Imran Khan, across the border, recently observed that Pakistan needed someone like India's Chief Election Commissioner to set things right.

What a relief it was to be free of loudspeaker menace, defacing of compound walls and endless slogan-shouting. No rigging, no booth-capturing, no threats, no impersonation and a repoll at the slightest evidence of breach of discipline, makes the 1996 elections a clean one. It is sad that this courageous crusader's term would be coming to an end in December. In an interview, the man said, "modesty is no virtue. One has to go all out to get things done. My family is under threat, but as long as I am there, duty is my mission". Bravo! great man. May your tribe increase.

May 1996.

Prabha Ravi,
Mumbai.

The Consumption of Dissent in the Third World

Madhvi Gupta and Pushkar

The Western intellectual comes and speaks; his Indian counterparts wake up, suddenly, from deep slumber, to attend in hordes in crowded auditoriums the Voice of Dissent and applaud vociferously. Ah! Life would be such a drag but for the Great American Special Effects, the game of illusion that the non-Western world loves to believe as real. That the West manufactures both consent and dissent, we are either too stupid or too lazy to recognize. Even as the state stands accused of selling out to the West with its liberalization and development package, the *desi* intellectual, in a frenzy of 'Ecstasy', ransacks the Western academic world, to read, to listen, to consume, with eager and greedy desire, the sermons of the Western intellectual for justifications of dissent. While the political elite hitches itself to Coca Cola and to Kentucky Fried Chicken, to Du Pont and to Enron, in its attempts to reach the elusive economic El Dorado, the intellectual elite hitches itself to a Foucault, Lacan, Derrida or Falk for its own intellectual massage and instant hand-me down *nirvana*. Dissidence, too, must be duly certified by the West and our intellectual enterprise is willingly part of intellectualism Inc., as a joint venture, (not to mention a subsidiary and subservient venture), with ideas financed, produced, packaged and stamped by the West. Local variations may be allowed for some native appeal.

Xerox economies, xerox intellectuals, all in keeping with 'Third World quality'; xerox machines that give only distorted copies at best, many times illegible, at others too faint to read, and most times, the machines decrepit with mis/(dis)use.

But before one forgets, this is not an essay on the inherited (?) traits of non-Western politicians or non-Western economies and state structures, or non-Western intellectuals for that matter. This essay merely sums up our views on the high-profile visit of that good soul, ladies and gentlemen, the one and only Noam Chomsky. No quarrels with him, bless his soul for opposing American imperialism! He deserves our applause for making

*Take the pen I offer you
and write
my resistance.
Speak for me
and vindicate
my existence*

MG

dissent a fairly prolific and profitable career. However, it is with the pattern of consumption of Chomsky's dissent (patented certainly!) in the Third World that is of concern.

We consume Western dissent (and consent) like any other consumable commodity. We have been for long consuming Western academic constructs in our universities as of better quality made in the First World, streamlined, latest, sanitized, modern and very much with-it, free from tropical ambiguities and distortions that heat, dust, lethargy and accompanying loss of coherence imbue these commodities with. And that is the stigma of these hot, Third World nations. It is like the President of Intellectual Multinational Inc. coming to educate us about ourselves upon the sense of intellectual hygiene and

efficiency. This is not to suggest in any way that this is Chomsky's worldview, but only that this how perhaps the Indian intellectual views his role and position, himself as inferior, and for whom better quality dissent is also necessarily born in distant, alien lands where other better quality products are manufactured.

The one minimum damage that dissenters like Chomsky inflict upon the Third World is that they divert attention from the 'wrongs within' to the wrongs born of the fake encounter between the East and the West. To recognise the latter in all its guises is important but to ignore the former is an acceptance of the roles thrust upon us by the 'Other'.

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Bogus Astrologers

It was not surprising that forecasts of many astrologers on the Lok Sabha election were wrong.

It reminds me of an oft told story of a person who invited an astrologer to dinner and when he arrived, beat him black and blue.

The astrologer managed to escape and filed a case. When the judge asked the accused why he beat the astrologer, he replied: "Sir, it was a test case. If he was an astrologer, he would have known whether he was going to dinner or for a beating."

The judge acquitted the accused.

Drayaldas V. V.
Mumbai Mid-day, 20th June 1996

How New Zealand Liberalised

Ken Schoolland

Implement reform in quantum leaps, otherwise interest groups will stop you.
Speed is essential. There are always costs and benefits with any change.

Roger Douglas has some extraordinary advice for dismantling government - once one gets into that seat of power. This article is based upon a talk which was delivered at the Hawaii Small Business Congress on November 10.

Douglas ought to know what he's talking about - he was the Minister of Finance in New Zealand from 1984 to 1988 and was primarily responsible for the reversal of the welfare state down under.

According to Douglas, New Zealand was suffering from a stagnant economy as a result of legendary government-imposed subsidies and economic barriers. Inflation was 50% higher than the OECD average - indeed everything was higher than average: debt, unemployment, trade deficits, regulation, and taxes. The only thing that wasn't high was the quality of goods produced.

His new government was able to remove a great many controls and make comprehensive changes that greatly improved the quality of living in his country. Says Douglas, "you have to make good use of resources and that can only be done when the price signals are allowed to make that possible. New Zealanders have finally achieved a 6% annual growth rate with inflation, debt, unemployment, and taxes all falling to dramatic lows."

Douglas' government also accomplished reforms towards freeing the labour, farm and capital markets. Government underwent privatization on a grand scale and set up the first case of profit-and-loss accounting for the government itself. It is now operating in surplus.

How was it Done?

Douglas says that politicians generally avoid reform until they are

absolutely forced by crisis to do something. Up to the minute of crisis they will pretend that their opponents are merely being deceitful in order to trick the populace into changing captains. But when the crisis comes, Douglas believes that politicians can be successful if they adopt the following points of advice.

1. "Avoid compromise. Whenever we compromised the problem remained." Politicians like to get a consensus before acting. Don't! Take the leadership and the consensus will build afterward. Compromise policy always comes back to haunt one.
2. "Implement reform in quantum leaps, otherwise interest groups will stop you." Speed is essential. There are always costs and benefits with any change. Since the costs come first, a slow implementation will allow the interest groups time to build resistance before people can experience the benefits. Once you have momentum, don't stop. It is difficult to shoot a moving target.
3. "Don't underestimate the ability of people to adjust". People will underestimate their own abilities, but they must be challenged. Farmers once received a third of their incomes from government and now get nothing. The result today is that the farm sector is strong and growing and no one wants to go back to the old subsidies. In fact, once the privileges are removed from one group, they work hard to help remove the privileges of others. The farmers were fiercely opposed to change until they lost their subsidies, then they became the greatest of allies in targeting the subsidies of other sectors. "If I can't have it, then nobody can!"
4. "Credibility is everything and you must be consistent to be credible",

Outline your goals as far as possible and don't underrate the public. Explain everything. Above all, don't blink. The public's confidence depends on your composure and the perception that you fully believe what you are doing.

When?

This may be helpful advice to some crew that suddenly finds itself in the seat of government. But what about getting into that seat in the first place? Douglas was a little more vague on that point - probably because he isn't convinced that he followed point 4 to get into power in the first place. Indeed, I think he believed it was an accident that his people got to power at all.

Douglas' socialist Labor Party was whisked into office following a snap election and the populace didn't really know what they were getting. "I wrote a little book beforehand called *There's Got to Be a Better Way*, but only about three thousand of the five thousand printed books had been sold". Basically his party did what they had to because the New Zealand government finally ran out of credit and foreign exchange. Rich countries eventually get into trouble just as poor countries do, they're simply given more rope to hang themselves.

One wonders if it is possible to get elected if you tell the voters beforehand that you will not compromise, that changes will come in quantum leaps, that the populace will have to adjust dramatically, and that you will be consistent in applying the changes to everyone. I suspect that people will vote for radical responsibility if they personally feel the severity of the crisis.

MR. KEN SCHOOLLAND is Associate Professor of Economics and Political Science at the Hawaii Pacific University in Honolulu.

COURTESY: *Freedom Network News*.

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ASEAN in the New World Order

Santishree D.N.B. Pandit

ASEAN'S goals, spelt out in the Bangkok Declaration of 1967, were to accelerate economic growth, social progress and cultural development in the region as well as to promote regional peace and stability.

In the post-cold war world era, the most vital region of international growth of development has been the Asia-Pacific region which is now the centre of gravity in international politics. Of the current major global powers, four are situated here. Of the major powers of the future that may emerge by 2020 A.D., six, viz. USA, China, Japan, Russia, ASEAN or south east Asia and India, are likely to be from this region. In economic terms this region has one of the highest growth rates in the world - 5.8%. Truly, 21st century belongs to this region.

It is necessary to distinguish between the Asia-Pacific region and the ASEAN as a regional organization. The Asia-Pacific region has not been defined whereas the members of ASEAN belong to the geographical area of south-east Asia. ASEAN was formed in 1967 with Indonesia, Malaysia, Thailand, Singapore and the Philippines as its founding members. Brunei became the sixth member in 1984.

ASEAN's Goals

ASEAN's Goals, spelt out in the Bangkok Declaration of 1967, were to accelerate economic growth, social progress and cultural development in the region as well as to promote regional peace and stability. ASEAN was not a military alliance and the security relationships underpinning ASEAN regionalism were somewhat downplayed by its founding members. But security management has always been a major part of its evolution. A number of previous measures, like the call for a Zone of Peace, Freedom, and Neutrality (ZOPFAN) in south east Asia;

the 1976 Treaty of Amity and Cooperation, the Declaration of ASEAN Concord in the same year and ASEAN's vital role in the Kampuchean conflict in the 1980s, all had a lot to do with the security of the region and to enable the group to survive and tackle future security challenges.

Cold War Rivalries

The Cold War shaped the parameters of the relationships in the region. The old regional order in South-east Asia was determined by the two Cold Wars in Asia as a whole, the east-west and the east-east (the US-Soviet and Sino-Soviet rivalries). This was a region in which geopolitical, ideological and national security interests of the USA, the Soviet Union and China intersected. As elsewhere in the third world, great power intervention helped to internationalise local conflicts and fuel regional rivalry, with Indo-China being the most affected. While domestic conflict in Vietnam over regime legitimacy and organising ideology was rooted in the colonial era, it was the competitive engagement of the US on the one hand and China and the Soviet Union on the other which turned the conflict into a major flashpoint in the region. The US withdrawal from Vietnam in 1975 marked the end of east-west cold war in the region, and another Indo-Chinese state, Kampuchea, became the key testing ground of the east-east cold war between China and the Soviet Union. The evolving Vietnamese-Khmer Rouge rivalry engaged the Sino-Soviet rivalry and turned Kampuchea into a killing field.

The Vietnamese invasion of

Kampuchea significantly reinforced existing animosities. Vietnam was accused of violating the principle of non-intervention that formed the basis of ASEAN's principles as formulated in the 1976 Treaty of Amity and Cooperation. This presented the problem of intervention in the internal affairs of member states, especially the presence of Vietnamese forces on the Thai-Kampuchea border and the inflow of Vietnamese refugees. The goal of ASEAN to keep the region free from Big power rivalry was unsuccessful. The Kampuchean conflict was not a local conflict but one which brought to the forefront the Sino-Vietnamese, Sino-Soviet and US-Soviet rivalries.

Misgivings and Uncertainties

There was degree of predictability in the big power involvement in the region. Its greatest achievement was to prevent the emergence of a single hegemonic power capable of dominating south east Asia. This and the strong US military involvement in the region contributed to the domestic stability of the regimes and to their economic growth. It helped build a sub-regional security community, a rarity in the Third World.

The post-Cold War world has created misgivings and uncertainties. The reduction of US stakes in the region and the reassertation of the People's Republic of China (PRC) as a maritime power in the region has brought its own new problems. The Soviet withdrawal from Vietnam removed a useful counterweight to any design by China for supremacy in the region. Internal security issues are being in-

creasingly defined in terms of their external and internal implications. The region's record in democracy and human rights and democratization concerns in the West have effectively linked the ASEAN states' domestic policies to their international trade and economic relations with human rights is seen as unwelcome interference into the internal affairs of these states.

Human Rights

ASEAN policy makers have argued that the concept of human rights, emphasising only political freedom and justice is inappropriate for the developing societies of Asia. The argument is that human rights should be seen holistically encompassing a multiplicity of rights, like the right to development and the necessities of life such as food, shelter, health, education and employment. Added to this is the importance of political stability which would mean keeping the right balance between the rights of the individual and the needs of society.

Territorial Disputes

Several intra-ASEAN territorial disputes hitherto kept in cold storage, have the potential of disrupting regional stability, viz. Malaysia and Singapore over the Pedra Branca island; Malaysia and Indonesia over the Spadan and Ligitam islands in the Sulawesi Sea; between Malaysia and Thailand over border crossing rights; Malaysia and Brunei over the Limbang territory in Sarawak; between Malaysia and Philippines dispute over Sabah.

The dispute over the sovereignty of the Spratly islands has been in the limelight. The Chinese wish to convert the South China Sea into a Chinese lake, making China a major maritime power which would control a strategically important waterway.

The dispute is over the Spratly archipelago, a group of 230 islands to the south of the South China Sea. Thity is the largest island controlled by the Philippines. All claimant states except Brunei have placed troops on the islands they occupy. As these islands

are suspected to possess natural gas and oil resources, a treasure hunt to claim these islands has begun.

Taiwan, China, Vietnam and the Philippines have each incorporated the whole of the Spratlys into their provincial claims. China adopted a territorial Sea and Contiguous Zone law in February 1994 which specifies the islands as Chinese territory. The granting of petroleum and natural gas concessions in disputed sea areas is a common but provocative means for claimant states to exercise their jurisdiction.

US Policy

In this scenario, what has been the policy of the major external power, the USA in the region. The USA is the only super power in the post cold war world and its policy in the region will determine the future of the region. There has been concern over the stationing of US troops in the region. Except for Japan and South Korea, none of the other states want US troops on their territory. Most of the ASEAN states prefer an "over the horizon" presence. Economics will always play a determining role in the Asia-Pacific security environment. The creation of APEC (Asia-Pacific-Economic Cooperation) in response to the region's rapid and substantial growth in the 1980's heightened local trade tensions and competition for comparative trade advantage.

India has neglected this region due to the ruling elite's obsession with socialism. It was only in 1991 that this policy of neglect of south east Asia was reversed. It is in the same year that India inaugurated the policy of looking east. This region will provide India considerable trade opportunities and give a boost to bilateral and multilateral trade. It can also bring about a strategic consensus due to the threatening postures of China in the region. Even the US is not averse to Indian participation in the ARF and the Asia-Pacific security community. India could help in confidence building measures on the Kampuchean issue as she is close to the Vietnamese government.

It could help in naval confidence building measures as a counterweight to China's attempt to secure access to the Indian Ocean through Burma, with its presence on the Coco Islands which are very close to the Andaman and Nicobar Islands. India can also develop close cultural relations with the region.

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ASEAN's Priorities

ASEAN has decided that it will not interfere in the internal affairs of member countries and believes that its "constructive engagement policy" has helped the release of Aung San Suu Kyi last year from house arrest. Daw Suu Kyi on the other hand, has been calling for sanctions against Myanmar since any policy of engagement in trade only strengthens the illegal and highly oppressive military rule. The European Parliament, USA, Japan, New Zealand and Australia are indicating responsiveness to her plea, whereas ASEAN seems to be getting into a defensive North-South syndrome in which Asians are sought to be mobilized to protect the "Asian way" in rather questionable areas. While it is not just necessary but imperative to resist the economic domination of Western led market forces such as the bullying over CTBT and backdoor protectionism by the West through raising of social clauses, we cannot carry it to the illogical and immoral extreme of defending our right to transgress universally accepted norms of human rights.

Jaya Jaitly in the Asian Age,
August 10, 1996.

Kashmir - The Return of Electoral Politics

E. D'Souza

In 1997, the Kashmir dispute will be 50 years old. Who gained and who lost? Pakistan undeniably gained a third of the erstwhile State of Kashmir. By so doing, it created a buffer between India and itself in a very sensitive area and enabled 'wahabi' Islam to influence the present situation in Kashmir, which could well have resulted in the ethnic cleansing of Hindus and Sikhs in the Valley.

In 1997, the ongoing Kashmir dispute will be 50 years old, thanks to intrasigence, poor diplomacy, rigidity, and fundamentalism, leading to an escalation in militancy in the high mode and a low intensity conflict aided and abetted by Pakistan to further its ends, little realising that it has only served to fuel uncontrollable religious passions of a once peaceful Kashmiri people. The toll has been heavy, the cost mind boggling. Nowhere does there seem to be a solution of this conflict in sight.

The Return of Electoral Politics

It is to the credit of the Congress and the short lived BJP governments that parliamentary polls have been successfully held in the six constituencies in the State and the elected members sworn in. It is equally encouraging that the new dispensation in the Lok Sabha, the United Front, is talking seriously about State Assembly elections in the near future (hopefully before T. N. Seshan retires)*, and greater autonomy within the Constitution of India, involving all the people of the State, and not only the Kashmiri Muslims, to reach a peaceful resolution. That Farooq Abdullah's National Conference has welcomed this move is encouraging. If the proposed dialogue between India and Pakistan is reopened, it may well be on the cards that a workable solution could be hammered out among the three players - India, Pakistan and all the peoples of Kashmir.

Certain parties have tried and continue to give this conflict a reli-

gious slant to the extent of calling a 'jihad'. Can one do so considering that India has nearly 140 million Muslims fully assimilated into the Indian national mainstream; presidents, governors, ministers, cabinet secretaries, bureaucrats, ambassadors, top grade defence scientists, senior positions in the armed forces, MLAs, railways, police, and even in the field of sports.

Two Recent Publications

Two very recent publications and this writer's own experiences have prompted this article to be written. The first, in January 1996, is a fairly slim hard cover published by Karthikeya Publications, Meerut (UP), "*KASHMIR: Resolving Regional Conflict: A Symposium*" edited by Professor Robert G. Wirsing of the Centre for South Asian Studies, University of South Carolina who felt that academia should attempt to formulate a workable conflict resolution; he is an expert on South Asian Affairs and the Kashmir conflict.

The second publication, another slim hard cover by eminent journalist Prem Shankar Jha, "*Kashmir 1947*", (See *Freedom First*, No.429, April-June, 1996 for reviews of both these publications) also published in 1996 by the Oxford University Press, Mumbai, attempts to unravel the rival versions of the much debated Instrument of Accession which American Robin Raphael and British observers after nearly 44 years now question not only its credibility, but also its existence. It would therefore be more appropriate to first consider the Instrument of Accession viz. was it ever signed; was it signed under duress; was Maharaja Hari Singh

in a fit state of mind to sign this document; were Indian troops flown in before it was signed; what were the other factors involved in the signing? There are many versions of this event. Prem Shankar Jha, after carrying out very exhaustive investigations through available records, memoirs and even interviewing those who were involved and are still alive, is of the considered objective opinion that this document was signed after considerable thought. And his arguments on the face of it are convincing. Maharaja Hari Singh was privy to the communal mayhem on the borders of his State following partition; he was aware that Pakistan was instigating Muslims in Poonch District; there never were such communal divide in his State, he even had 3000 Muslim troops in the State forces, he felt that his State's future lay with the new secular Dominion of India. To this end he even changed his Prime Minister by replacing Kak with Justice Mahajan.

The Instrument of Accession

The delay in signing the document is attributed to Pandit Nehru who was obsessed with the thought that Sheikh Abdullah's National Conference had to be behind the acceptance, whereas Sardar Patel thought otherwise, in the sense that Sheikh Saheb would give his consent eventually. This delay, and the arrival of the tribesmen from across the border, may well explain the Maharaja's predicament. In fact, Mahajan even threatened to return to Kashmir with the unsigned document if Panditji delayed any further. That the document was actually signed is confirmed by Field Marshal

* This article was written in April 1996.

Sam Manekshaw who, in September 1947, flew in with V. P. Menon to Kashmir with the Instrument of Accession to get the Maharaja to sign it. And when this was done, Menon excitedly waved the document to the then Colonel Manekshaw to say that it had been signed. It is most unlikely that an officer of Sam Manekshaw's calibre and integrity would ever make such a loose statement when he was interviewed by Jha.

Was the decision to fly Indian troops into the Valley taken before the Instrument was signed as claimed by Pakistan and the British government at that time? Whereas arrangements to raise the necessary number of Dakotas were taken earlier and troops earmarked, knowing fully well that the Pathankot-Kathua-Jammu-Banihal-Qazigund-Srinagar road link was a tenuous one and that the raiders would have captured Srinagar, it would be too late to make arrangements to do so. This pre-planning may well have given that impression. Those of us who were in the Valley in 1948, know only too well that the landing Dakotas were fired upon by the raiders and if Srinagar did not fall, it was because of the battles of Shalatang and Baramulla. Thus this canard can be safely ignored.

Deployment of Indian Troops

There is some confusion though that the Pakistan Army reported Sikh troops deployed on the Uri road. These were certainly not of the Indian army but may well have been the Patiala Infantry, a World War II experienced unit of the Patiala State Forces, not controlled by Army HQ India. These troops may have been inducted into Kashmir much earlier when Maharaja Hari Singh appealed to the Maharaja of Patiala to send troops to help him out to avoid communal frenzy in his secular State. If further proof is needed, the nuns of the Baramulla convent can testify, as they did to this writer in 1969 when recounting the rape of Baramulla by the tribals, that there were no Indian troops in the Valley when the convent was pillaged and nuns raped. Why such issues are being

raised as plausible by certain interested governments needs to be ascertained.

It is now known that Pakistan used this pretext to send her own troops in so that the raiders could be given support to capture Srinagar. Had this been achieved Kashmir would be part of Pakistan. That Pakistan closed a blind eye to the thousands of tribals who entered the State in buses, and later supported them, can be testified by messages exchanged between Generals Roy Bucher, Messervy and Gracey and Field Marshall Auchinleck, senior British Officers of the Indian and Pakistan Armies. Throughout this sordid scenario, it is abundantly clear that the British government in Whitehall was behind Kashmir acceding to Pakistan in the larger interests of the British grand strategy to contain Soviet expansionism from the North.

Lord Mountbatten's 'Tilt'

Yet another event which cast its shadow on the accession and Lord Mountbatten's alleged tilt towards India, was the Gurdaspur/Ferozepur tehsils. In fact Pakistan did impose an embargo on the movement of essential supplies into the Valley although the CRO denied this but General Scott, Commander of the Kashmir State Forces opines to the contrary. The only route of entry, a long and tenuous one was from Pathankot via Kathau, Jammu and Banihal Pass.

When Mountbatten sensed that Maharaja Hari Singh had very little choice than opt to join the Indian Union, he appreciated the need for an alternative land route into the State and this was the Pathankot-Jammu road. He therefore advised Radcliffe to define the boundary in such a manner in Gurdaspur District that the three tehsils which had a slightly marginal majority of Muslims and through which the road passed, should go to India, and this was done though Jha thinks that this was a *fait accompli*. There were also three tehsils in Ferozepore District with muslim minorities which should have been awarded to Pakistan. The Maharaja of Bikaner protested that if this was done, the Hussainiwala

Headworks which regulated the flow of river water to his State would be under Pakistan control with its resultant consequences. These three tehsils were also awarded to India. These two incidents are being thrown up as an indication of Lord Louis Mountbatten's favouritism to India with implications on the validity of the Instrument of Accession.

Religion Versus Ethnicity

Yet another questionable area of conflict is religion in the context of the Indian sub continent. Although religion is certainly an important ingredient in the personalities of nations as of individuals, it defines neither, says Jha. In this sub continent, the social reality is ethnicity, an ethnicity thrown up through a shared language, history, customs, food, dress, art, music and culture. The theory of partition based on religion has driven a meat cleaver between the ethnic identities and this has proved to be an extremely bloody affair, a trauma which has persisted till today and which colours any conflict resolution in Kashmir.

In the case of Muslims, religion through the name of Allah was invoked to 'sensitize' them to accepting the two nation theory. That ethnicity overrules 'religion' is exemplified in what is happening in Sind and the MQM problem. By transferring their UP ethnicity to Sind, their absorption has thrown up major problems. Even in India, the BJP's attempts at *Hindutva* and the destruction of the Babri Masjid have not given the party the vote bank it was hoping for. It has not been able to overcome the ever resurgent ethnicity of the Indian nation. How right Jha is. This 'secular' ethnicity may well explain why Kashmir's accession to India was not unnatural.

British 'Designs'

Finally the grand design of His Majesty's Government in its tilt in subtly fostering the accession of Kashmir to Pakistan. The CRO, through its representative Rumbold, had no hesitation in conceding the Nawab of Junagadh's right to accede to Pakistan although the population was overwhelmingly Hindu. Yet, Kashmir's

population is one-third Hindu, Buddhist and Sikh, and there was a sharp division within the Muslim community itself about which Dominion to join. This was borne out by the decision of Sheikh Abdullah's National Conference, representing the majority 'sufis' in the Valley to join India. Nehru was honest enough to inform Attlee that consequent on the Maharaja's decision to accede to India, the train of events impelled him to fly troops to the State, also mentioning in passing, the decision of the National Conference to support the accession.

The response was cold implying that it cut no ice with the British High Commission in New Delhi which pointedly mentioned how Olaf Caroe did not respond to Dr. Khan Sahib's plea for additional troops to the NWFP where the Muslim League was stoking communal passions. He further pointed out that the Pakistan Government had moved a brigade to Abbotabad and that it had encouraged the raiders. It is not generally known that Pakistan had planned to celebrate Bakri Id in Srinagar on 26 October; that it had

created a provisional government and that the Abbotabad Brigade could have been in Srinagar on 26 October; unopposed within a matter of hours. Instead of having any effect on His Majesty's Government it only served to increase the animosity of the CRO to India. The CRO dismissed these assertions as unfounded in spite of the fact that General Gracey C-in-C Pakistan was ordered by Jinnah to send two brigades into Kashmir. Finally, Noel Baker questioned the despatch of Sikh troops by India into Kashmir, knowing full well that they were not from the Indian Army. There are many other examples of British perfidy but facts speak for themselves. Even Iskander Mirza in a letter to Sir Olaf Caroe stated that Pakistan 'behind Sir George Cunnigham's back, pushed tribesmen into Kashmir'!

Who gained and who lost? Pakistan undeniably gained a third of the erstwhile State of Kashmir. By so doing, it created a buffer between India and itself in a very sensitive area and enabled 'wahabi' Islam to influence the present situation in Kashmir, which

could well have resulted in the ethnic cleansing of Hindus and Sikhs in the Valley.

There have been human rights violations by our security forces forced upon them by the Militants who take refuge in villages and who extort food, etc. Politically we have had major shortcomings. But to say that 6 lakh Indian troops are deployed in J & K is a gross mis-statement. The Indian Army's overall strength is just over 8 lakhs and it has a very long border to guard. To the best of this writer's knowledge, possibly just over three divisions have been inducted into the Valley for counter militancy operations.

Once saner sense prevails, lasting peace can be achieved by the three main players concerned, without third party mediation.

MAJOR GENERAL E. D'SOUZA, PVSM, Indian Army (Retired), has had an ongoing association with Kashmir since 1948: in the Valley Sector; 1958/60; in the sensitive Poonch Sector; 1969/72; again the Valley Sector as General Officer Commanding the Infantry Division during the 1971 War; and in 1972/73 in Nagrota to raise a new Corps HQ. Since then he has visited J & K frequently, the last being in 1995.

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The Greatest of Treasures is the One Inside Oneself

Basu Alam

In July this year, I had the pleasure of meeting Mr. Basu Alam, president of the Rainbow Foundation, based in Sweden. Mr. Basu Alam is a Bangladeshi who, persecuted in his own country by the then military dictatorship, received political asylum in Sweden, now his adopted country. Bubbling with energy and ideas on how to channelise the energies of today's youth, Mr. Alam is on a tour of India and Bangladesh to expand the work of the Rainbow Foundation. He has asked me to convey his greetings to the Freedom First fraternity and his conviction to the youth that the challenge of living together is as relevant to India as it is to Sweden. We publish below extracts from a speech he delivered on the occasion of the first anniversary of the Rainbow Foundation. Sweden's Prime Minister was the Chief Guest at this gathering.

Sweden is for Swedes. That is the way it should be. The question now is which Sweden and what Swedes? Is it a homogeneous Sweden considering culture, religion and colour of skin or is it a multiethnic Sweden with Swedes of various colours? It is only about a decade since Sweden turned into a multiethnic society. Every fifth inhabitant has his roots in a different part of the world. This change has been fast and seismic for both the new and the inborn. Sweden has been enriched in many ways, but the change has also given us huge problems.

Swedish society is built on mutual respect between its citizens; on open debate and a living democracy. Respect between people is fundamental and has to remain so, no matter what background one has or how one looks. An open debate without taboo or hush-hush is essential for a multicultural, democratic society. The natural anxiety that many natives feel confronting this new situation has to be respected and debated. Anxiety that is not allowed to be talked about creates hatred and xenophobia.

The question is no longer "to be or not to be". The question is rather "how to be"? Should we have a democratic society where every one of us takes an active part and be accepted with our own roots and the culture we took with us and live as Swedes in our own way? Or should we live under a collective term as immigrants without being fully acknowledged members of our society? Should we have one nation for the inborn Swedes and one for the immigrants? Or should we develop

a nation with room for all its inhabitants no matter where one is born, what colour of skin one might have or what religion one might serve. A nation that everyone of us, in spite of diverse backgrounds, can proudly call "my home - my country", a nation that grows because of her ethnic diversity instead of getting shattered.

Many years ago in Ireland, stories were told about elves, trolls and leprechauns that guarded a pot of gold. The pot was said to be at the end of the rainbow. These fairy tales were always about the youth who came out of harsh conditions. They cunningly and wisely survived the dangers and outsmarted the leprechaun who finally had to give the pot of gold to the bold hero.

In Sweden of today, there are also people, both young and old, who have to fight, not against leprechauns and trolls, but against prejudices, intolerance, racism and oppression. We politicians and our authorities have, despite brave efforts, been blinded and motionless so far when it comes to questions about segregation, xenophobia and discrimination in our society.

The challenge is about people living together. For it to become possible, we need to seek knowledge without any fear of the results; where does, for instance, the identity crisis among our youth and the hidden discrimination in our society come from? How long should one have to live in Sweden to be treated as a Swede? If everyone living in Sweden (as it is said in debates) once was an immigrant, then

why do we consider only a part of the inhabitants as Swedes and the other part as immigrants or even second generation immigrants?

One year ago, we formed The Rainbow Foundation. It has not got all the answers to the questions, nor can it solve all our problems. Although, it can be a platform where one can partake in a dialogue to understand each other and to see the resemblances, not the differences. The Rainbow Foundation will become a bridge connecting people of different backgrounds and colours. We will build up a bank of know-how, especially for our youngsters, and a network of people those who have their own ideas and visions to enhance the new Sweden.

We must start to see our youth as troubleshooters and the solution to our problems. It is our children and the youth who will together form tomorrow's Sweden. They are a part of the treasure chest that is at the end of the Rainbow. Just like a real treasure it consists of both ducats and doubloons, diamonds, rubies and pearls. All different in their own ways, but just as valuable. What we, the elders can do is to give them advice, to help them set the path and to get rid of some obstacles. We, the elders, should never become the leprechauns they fight against, but instead their trustworthy friends and companions in search of the pot of gold. It is then we have proved that the greatest of treasures is the one inside oneself.

Debate

Nationalism, Secularism, Communalism

In a discussion on secularism, the contents of any religion are not relevant. *Freedom First* is neutral between religions. We believe that religion is the private affair of individuals and must be confined to their places of worship and within the four walls of the homes of believers. But it is when religion intrudes onto issues temporal that *Freedom First* feels the need to comment and criticise. This is not the same as taking sides in purely inter-religious disputes.

Mr. Sarto Esteves' book has provoked many champions of *Hindutva* to send in comments highly critical of Christianity in general and Roman Catholicism in particular. We published a letter from Ms. Anita Chavan in the last issue (No.429). In this issue, we have selected one more, and publish below, a letter received from Mr. G. V. Ashtekar. We shall request Mr. Sarto Esteves to respond to the issues raised. Once we publish his response, we shall close the debate. Let me, as the editor of *Freedom First*, repeat that we do not subscribe to any religion. *Freedom First* has no desire to waste precious paper on futile discussions which, while not adding one bit to broadening people's minds, only helps sharpen differences.

We also publish Mr. Bery's letter which while critical of those who criticise *Hindutva*, does not seek to belittle someone else's religion - *Editor*.

I hope *Freedom First* will live up to the ideals enshrined in the foreword, given below, to a book entitled "Crux Ansata" written by the famous historian, Mr. H. G. Wells, and printed by the American Atheist Press, P. O. Box 140195, Austin TX 78714-0195, USA.

"Crux Ansata"

When 'Crux Ansata' was first issued in the United States, the small advertisement which heralded it, spoke volumes:

"This bold and outspoken attack on the Roman Catholic church is one of the most provocative books of our times. When first published, it created a sensation in England and copies sent to the United States were confiscated by customs officials. It was only when the manuscript was received in a private letter that an edition in this country was possible. We believe that every man and woman in America will want a copy of this terrific indictment of the Roman Catholic church by so eminent a world figure as H. G. Wells."

"It has long been the policy of the United States government to permit its citizens to read only that which fortified the established value system it favoured. For many years, under the influence of the Comstock laws, certain books were prohibited at our borders, or forbidden in inter-state mails within our nation.

"Even such a name as H. G. Wells could not bridge the gap. Gibbon's Decline and Fall of the Roman Empire had been severely censored. The Bible criticism of Europe never reached the well guarded inhabitants of the United States.

"It was almost as if another needed to be made to our Constitution, something on the order of:

Citizens have the right to read,
anything,
indiscriminately
and no written word shall ever be withheld from them.

"Controls are more subtle now. It is *gauche* to read up on "single issues" which now are held in intellectual contempt as

products of simple or fervent but unthinking minds.

The American Atheist Centre holds otherwise. We here are delighted to see American Atheists read everything on which they can lay their hands, outreaching in every direction. As we can, these forbidden books will be published by the American Atheist Press - with the only admonition being to drink deeply of facts and then to make up your mind, for without facts, long deliberately withheld from you, there is no basis of opinions.

Madalyn O'Hair"

I will dwell on just a few points.

Babri Structure

Let us compare the Sangh *Pariwar* historiographers with those of the Protestant *Pariwar* (H. G. Wells). The Sangh *Pariwar* historians in their presentation to the Government of India on 23.12.90, entitled "Evidence for the Ram Janmabhoomi Mandir" have nowhere said that the Babri structure should be demolished. What they pleaded was, based on this evidence, that the Muslims should agree to hand over the site and that the Babri structure will be shifted to any other agreeable site

in the same manner as the Abu Simbal monuments were, before the filling up of the Aswan Dam.

But see, what Mr. H. G. Wells has suggested:

"Not only is Rome the source and centre of fascism, but it has been the seat of a Pope, who, as we shall show, has been an open ally of the Nazi-Fascist-Shinto Axis since his enthronement. He has never raised his voice against this Axis, he has never denounced the abominable aggressions, murder and cruelty they have inflicted upon mankind, and the pleas he is now making for peace and forgiveness are manifestly designed to assist the escape of these criminals, so that they may presently launch a fresh assault upon all that is decent in humanity. The Papacy is admittedly in communication with the Japanese, and maintains in the Vatican an active Japanese observation post.

No other capital has been spared the brunt of this war."

"Why do we not bomb Rome?"

"I cut the following paragraph from *The Times* of October 27th, 1942, "The air raids on Italy have created the greatest satisfaction in Malta, which has suffered so much at Axis hands. At least, the Italians now realise what being bombed means and the nature of the suffering they have so callously inflicted on little Malta since June 12th, 1940, when they showered their first bombs on what was then an almost defenceless island.

"As that bombing was intensified, especially since the Italians asked Germany's help in their vain attempt to reduce Malta, the people's reaction became violent and expressed itself in two words "Bomb Rome", which were written prominently on the walls in every locality.

"On June 1st, 1942, the enemy bombed Canterbury and as near as possible got the Archbishop of Canterbury. But what is a mere Protestant Archbishop against His Holiness the

Pope?"

In this book, he advocated that intolerance should be met with intolerance.

If the 'greatest satisfaction' of the Maltese was communalism, then the greatest satisfaction of a majority of the Hindus at what was allowed to happen at Ayodhya, is the right kind of communalism if only to give notice to pseudo-secularists that there are limits to *Sarva Dharma Samabhava*, not to be taken for granted beyond limit and for too long.

Shiv Sena

Apart from the famous or rather infamous (from the pseudo-secularist's point of view) interview of Mr. Nirad C. Chowdhary given to Shri Padgaonkar of *The Times of India* (8th August 1993) in which he had said that "Muslims do not have the slightest right to complain about the desecration of one Mosque" because their advent in India since 1000 A.D. has been a continuous spell of vandalism, the secular concerns of Mr. Esteves and Major General D'Souza should include the advice given by V. S. Naipaul (*The Sunday Times*, 2nd April 1995) in which he said that the Shiv Sena represents movement for a change and a "good thing". Said he: "People have to work with other groups and some intelligence has to go into holding these movements. You cannot reject the Shiv Sena. You have to deal with intelligence, not criticise it as fascist nor try to ignore it. It is an inevitable part of growth. A good deal of investment has been in this kind of growth".

Although Mr. Naipaul has not spelt out the investment but obviously the credit should be given for this investment to committed Christians like Mr. Esteves and committed Muslims like Mr. Shahabuddin! More than positive or negative propagation of *Hindutva*, it is the Hindu-bashing which has contributed a great deal to this growth.

Roman Catholics under BJP-SS

Here is one of Milton's famous poems:

"Avenge, O Lord, Thy slaughter'd saints whose bones

Lie scatter'd on the Alpine mountains cold;

Ev'n them who keep thy truth so pure of old,

When all our fathers worshipp'd stocks and stones,

Forget not: in Thy book record their groans

Who were Thy sheep, and in their ancient fold

Slain by the bloody Piedmontese that roll'd

Mother with infant down the rocks their moans

The vales redoubled to the hills, and they

To Heav'n their martyr'd blood and ashes sow

O'er all the Italian fields, where still doth sway

The triple tyrant; that from these may grow

A hundredfold, who having learn'd Thy way

Early may fly the Babylonian woe."

What occasioned him to write this? In 1665, the Roman Catholics were massacring Protestants in France and many victims fled to the safety and protection provided by the Duke of Savoy but he too, guided by the Church edict, joined the fun. Some of them appealed to Oliver Cromwell. A national fast was observed in England and a sum of Pounds 40,000 was collected for the relief of the victims and immediate hostilities from the sea was threatened. The Duke collapsed soon after. If the Roman Catholics could not tolerate their Protestant Christian brothers, we Indians should not be surprised at what they did to Hindus, Jews and Muslims during the Goa Inquisition.

But back to Cromwell, who plainly told the Catholic Governor of Ross in Ireland:

"For that you mention concerning liberty of conscience, I meddle not with any man's conscience. But if by

liberty of conscience you mean a liberty to exercise mass; I judge it best to use plain dealing and to let you know where the Parliament of England have power that will not be allowed of."

But our government is too liberal, allows *Namaz* on the streets. And in any case a BJP government will not restrict Catholics from exercising their mass.

Religious sensitiveness

Mr. Pothan Joseph, who definitely needs no introduction to the readers of various publications which Mr. E. D'Souza has listed, had said in his piece on "*Indian Affairs*" (1938):

"Muslim sensitiveness is so vital a factor in Indian politics that journalists have to be careful about the use of the language, let alone the exposition of ideas. Four hundred Muslims led a procession in London with black flags denouncing Mr. H. G. Wells because he had years ago passed a few criticism on a long page of eulogy he wrote upon the Prophet Mohammad".

"The Hindu and the Christian are the least affected by adverse comment of Prophet and God, the Hindu perhaps because of the vastness of his pantheon and the Christian because of his familiarity with the destructive polemics of religion."

That assures me that the committed Christians will take the religious polemics in their stride, particularly when they themselves indulge in the polemics against *Hindutva*. One pseudo-secularist recently told me an anecdote: "A sailor was once caught belabouring a Jew, and, when questioned, why he was so aggressive, answered: 'Because the Jews had crucified Christ'. When informed that it happened two thousand years ago, the explanation was 'But I heard it only now'. That was in reference to Babri Masjid. But there's one big difference. I have yet to come across a Jew who gloats over what was done to Christ and if pointed out, he will admit that that was a cruel thing to do. Do the Muslims feel sorry about it and admit that what Babar and Aurangzeb did was un-Islamic?"

In conclusion, I will just quote from the appendix to H. G. Wells' book "*Crux Ansata*". Mr. John Rowland, editor of the London "*Literary Guide*" asked Wells: "Do you regard the Roman Catholic Church as a definite menace to human freedom?"

Mr. Wells said: "I think that it stands for everything most hostile to the mental emancipation and stimulation of mankind. It is the completest, most organised system of prejudice and antagonisms in existence. Everywhere in the world, there are ignorance and prejudice, but the greatest complex of these, with the most extensive prestige and the most intimate entanglement with tradition institutions, is the Roman Catholic church. It presents many faces towards the world, but every where it is systematic in its fight against freedom."

G. V. Ashtekar,
Dombivli, Maharashtra.
July 1996.

Hindutva Weltanschauung

Having seen, in your issue of January-March 1996, Gen. D'Souza's review of Santos Esteves' book 'Nationalism, Secularism and Communalism', I was tempted to read the original - borrowed from a library, not bought. Everyone should read this book open-mindedly, not just the minorities as Gen. D'Souza commends. Over centuries of foreign rule, most of us have acquired an almost atavistic fascination for myths, independent of our creed, complexion or convictions or, to say the least, our conscience.

Let us take the three title words in reverse. Communalism is a word coined as a slogan in the 'fifties to conceal our guilty conscience for the holocaust that followed partition. After the Calcutta killings of 1946, nobody but nobody believed such a thing could happen in the Punjab - so strong was the bond believed to be holding

the communities together. Yet the inevitable occurred, unparalleled in recent, civilized human history, except for what happened to the Jews in Europe in the 'forties. The endeavour now is to call both non-events a construct of 'communal' imagination! Remembrance is not vindictiveness, but a re-assurance of it not happening again. How many 'communal' riots have there been since independence and how many judicial inquiries into them have seen the light of day and been openly debated? The Press fiction of 'a clash between two communities' - does it allay or raise fears of communalism?

And now what of secularism? The expression was neither in Dr. Ambedkar's draft nor in the Constitution adopted by the Constituent Assembly. An incorporation of the 1980s, it was an astute political smoke screen,

camouflaging the sharpening of vote bank politics that brought the Congress (I) back to power after the 1977 split and the short-lived experiment in coalition, most but certainly not all the constituents of which were confirmed or ex-communicated secularists of the 'divide and rule' school. In a far more sophisticated and modernised imitation of their predecessors, the British, after the 1957 uprising, adopted the policy, sanctifying it in the 1935 self-government constitution. Dr. Ambedkar, one of the most eminent constitutional authorities of his time, rejected reservations, left it for the scheduled castes and tribes for another thirty years.

The American Constitution makers, some of the greatest democrats of our times, rejected reservations as a means for the uplift and social integration of liberated African slaves.

Post-Independence parliamentary democracy opened up infinite opportunities for the pursuit of 'divide and rule' policies and their perfection by secularists through vote banks, completely outclassing the inherited British endeavour. So we had 'Mandal' and its aberrations - OBCs, ABCs, CBC and what have you. Interspersed in all this were the singled out priority interests of the Yadavs, Kurmis within the Dalits, and now the Dalit Christians, the capping absurdity of absurdities. We distort our own history and live by the myths perpetuated by aliens. Ancient India had long replaced caste by 'jati', a purely social concept regardless of a person's occupation or station in life. Related solely to endogamy and commensuality, this was Indian civilisation's way of assimilating immigrant groups into society without loss of their identities.

The Mauryas, founders of the country's greatest ancient Empire, were 'shudras' - keepers of peacocks - not 'khatris' of the warrior caste. The 1857 revolt was sparked off by a 'brahmin' sepoy: Mangal Pande. Research the composition of Clive's 'native' army at Plassey and discover a surprisingly large number of 'brahmins' in the ranks. Who commissioned 'Mandal' and who launched it as a political weapon in a skirmish with a colleague, a struggle he had already won? The cost to the nation's polity is really of no consequence for the perpetrators are die-hard secularists and their actions are understandable; so much so that since liberalisation seeks to reduce the public and government sectors, reservations are sought to be imposed on the private sector. Having lost the goodwill of both the majority and the minority communities, Congressmen are beginning to wonder whether they should not take another look at their brand of secularism. Is the call of Indian civilisation - Hindutva if you prefer - to be a call in the wilderness because it is anathema to benighted groups of self-styled secularists? This country has been refuge and home to innumerable persecuted faiths - Bene Israel, Syrian

weltanschauung: a particular philosophy or view of life, a conception of the world.

Christians, Zoroastrians - who have mingled and prospered in its culture; so it was and so it shall be always; for freedom of religion is at the core of the *Hindutva weltanschauung*.*

Shorn of sloganised rhetoric, how is the December 1992 Babri Masjid episode to be described? A mild spontaneous physical disturbance, registering less than four on the seismic Richter scale or an article of faith bogged down in the unholy quagmire of stark communalism and warped secularism! Turn this over seriously in one's mind before venturing on a condemnatory tirade or a laudatory defence. Either way, no one can negate its historicity.

Nationalism and the Constitution go together. By a very deft flight of imagination our erudite author has arrived at the conclusion that the BJP, VHP and their likes subscribed to the view of the Constitution having been drafted for the express benefit of the minorities. What Dr. Ambedkar, the architect of the Constitution, said about reservations and the background of such measures, has already been mentioned earlier. The BJP's advocacy of a common civil code is in the Directive Principles of the Constitution; a court has also had occasion to pronounce on this directive. Shah Bano, a citizen of India, won a maintenance suit under an old proviso of the IPC. The poor lady received a pittance of an award, just Rs.150/- per month for her children. There was no uniform civil code at the time. The judgement was set aside first by an ordinance, then a Bill, on the parochial grounds of interference with personal laws. Does not any citizen of India have a right of access to any law of the land regardless of whatever a personal law may have to say? Article 370 prohibits Indians owning land in Kashmir, but Kashmiris can own land anywhere in India with impunity. Of course, the BJP and their likes are anti-minority, anti-constitutional, anti-national when they seek to implement the Directive Principles or correct glaring inequities in Law or Constitution.

Perhaps, I could do no better than to end on a personal note. In the late

sixties, large scale cross country foodgrain transport involved the Railways intimately and constantly with the Food Ministry; I invited the Food Secretary and his wife, a Mr. & Mrs. Dias - to my residence for drinks and dinner. Half way through drinks, Mrs. Dias turned to her husband and said, 'Darling, did you know Mrs. Berry is a Saraswat Brahmin like us? Well, my wife is a Chitrapur Saraswat Brahmin from Mangalore, brought up in Mumbai, as much a Maharashtrian as a Konkani. I am a 'Khatiri' from that part of Punjab, now in Pakistan. Here then is 'Hindutva', two and half decades before it was publicly articulated.

M. N. BERY,
Chairman, Railway Board (Retd.),
New Delhi.

Choosing Between Two Evils is No Choice

Dilution of norms in the name of modern interpretation has been going on for so long now that dilutions have come to stay as the only norms known to the rising generation. Choosing the lesser evil as the only course open before us has done more harm than anything else. Evil is evil after all, no matter it's lesser or greater.

Revival of the past or some new ray of hope emerging as a torch-bearer the way Gandhi did, and later on, kept by Rajaji for us to guide, is to seek an eclipse for the full moon today. The Renaissance he brought about is still in the formative stage. Let's see to it that his message spreads with more rapidity than it has over the last three decades.

Since no such hope seems to be in sight right now, let's rely on those eternal values which are based on eternal verities of nature and life. To be a critic of something is one thing, and to offer an alternative that works better than what is sought to be replaced is quite another. Marx failed only here. He was a critic of a society based on freedom as a creed, more valuable to be upheld in life as a reliable road to abiding prosperity through opportunities created for betterment and not sought from the State in the name of well-being, not a perfect exponent of a classless society. He says nothing about how a classless society once achieved, disintegrates into further classes in due course of time.

February 1996,
Bharatpur.

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Supreme Court on *Hindutva*

V. M. Tarkunde

These decisions of the Supreme Court Bench are highly derogatory to the principle of secular democracy and the letter and spirit of Section 123(3) of the Representation of the People Act, 1951. It is to be hoped that a larger Bench of the Supreme Court will on a future occasion reconsider these decisions and undo the great harm caused by them.

On December 11, 1995, a three judge Bench of the Supreme Court delivered judgements in a number of appeals which arose from decisions of the Bombay High Court relating to the validity of the elections of certain Shiv Sena-BJP candidates of the Maharashtra Legislative Assembly. The Bombay High Court had set aside the elections of these candidates mainly on the ground that they had committed a corrupt practice defined in section 123(3) of the Representation of the People Act, 1951. The corrupt practice defined in section 123(3) consists of "appeal by a candidate or his agent or by any other person with the consent of a candidate or his election agent to vote or refrain from voting for any on the ground of his religion...."

By these judgements the Supreme Court has watered down to a very material extent the rigour of the above provision in the Representation of the People Act in respect of candidates who stood for *Hindutva* or who appealed for the creation of a Hindu State. Larger Benches of the Supreme Court had previously held that secular democracy is one of the basic features of the Indian Constitution, and that section 123(3) of the Representation of the People Act was intended to uphold the principle of secular democracy. By watering down the meaning and the rigour of that provision, the present three-judge Bench of the Supreme Court has dealt a very severe blow to the principle of secular democracy.

This damage has been caused by three judgements: Dr. Ramesh Yeshwant Prabhoo Vs. Shri Prabhakar

Kashinath Kunte & Others; Manohar Joshi Vs. Nitin Bhaurao Patel & Another; and Prof. Ramchandra G. Kapse Vs. Haribansh Ramakbal Singh.

Hindutva Promotes Secularism?

In the case of Dr. Ramesh Yeshwant Prabhoo, the Supreme Court Bench dealt with the meaning of the word '*Hindutva*' or "Hinduism" when used in election propaganda. The court came to the conclusion that "the words '*Hinduism*' or '*Hindutva*' are not necessarily to be understood and construed narrowly, confined only to the strict Hindu religious practices unrelated to the culture and ethos of the people of India depicting the way of life of the Indian people. Unless the context of a speech indicates a contrary meaning or used in the abstract, these items are indicative more of a way of life of the Indian people and are not confined merely to describe persons practising the Hindu religion as a faith".

This clearly means that, by itself the word "Hinduism" or "*Hindutva*" indicates the culture of people as a whole, irrespective of whether they are Hindus, Muslims, Christians, Jews, etc. The Supreme court Bench had further observed that "the mere fact that these words (*Hindutva* or Hinduism) are used in the speech would not bring it within the prohibition of subsection (3) or (3A) of Section 123. It may well be that these words are used in speech to promote secularism and to emphasise the way of life of the Indian people and the Indian culture or ethos, or to criticise the policy of any political party as discriminatory or intolerant. Whether a particular

speech in which a reference is made to *Hindutva* and/or Hinduism falls within the prohibition under subsection (3) or (3A) of Section 123 is therefore a question of fact in each case".

These conclusions of the Supreme Court Bench clearly mean that if a candidate were to declare that he believed in *Hindutva* and therefore the voters should cast their votes in his favour, without saying anything more, he would not be committing any corrupt practice as defined by Section 123(3) of the Act. He may, according to the Supreme Court Bench, be referring to the culture of the Indian people as a whole including Muslims, Christians and all other non-Hindu citizens. Can this conclusion be accepted as correct?

Hindutva - Culture of all Indians

In the first place, any statement made before an audience should be interpreted in the sense in which the members of the audience are expected to understand it. During an electoral campaign, the purpose of almost every meeting is to appeal for the votes of the electorate. Would the normal electorate in India understand that what is meant by *Hindutva* is the culture of all the people of India including those of non-Hindu faiths? Obviously, by *Hindutva* most of the voters would understand the culture of Hindus including their religious faith, and not the faith and culture of non-Hindus.

Even an audience more educated that the average Indian voter would understand by *Hindutva* the culture (including the religion) of Hindus and not of non-Hindus. In particular,

Hindutva cannot be understood by them as inclusive of the culture and religion of those whose religion arose outside India, such as Muslims, Christians and Jews.

Culture Includes Religion

It is well understood in anthropology that the culture of the people includes their religion, their language their arts and crafts, their ways of earning a living and their behaviour with others. This means that culture includes religion, and that an appeal to vote on the basis of *Hindutva* includes an appeal to vote for the Hindu religion as well. Since an appeal to vote for *Hindutva* includes an appeal to vote for the Hindu religion, it clearly amounts to a corrupt practice as defined by Section 123(3) of the Representation of the People Act, 1951.

The conclusion that *Hindutva* or Hinduism means the culture of all the people of India (and not Hindus alone) is derived by the present three-judge Bench from two previous decisions of the five-judge Benches of the Supreme Court - Sastri Yagna-purushadji and Others Vs Muldas Bhudardas Vaishya and Another, 1966 (3) SCR 242; and Commissioner of Wealth Tax, Madras and Others Vs Late R. Sridharan by LFs. 1976 (Supp. SCR 478). Neither of these decisions support the conclusion of the Supreme Court that *Hindutva* or Hinduism means the culture of the people of India as a whole.

In Sastri Yagnapurushadji's case, a Constitution Bench of the Supreme Court held that the Swaminarayan sect is part of the Hindu religion. It was observed in the judgement in that case that originally the word "Hindu" arose from the river Indus and the residents around the river were called Hindus. That observation has hardly any relevance to what Hinduism or *Hindutva* means today. Moreover, the judgement in that case refers to many authorities and concludes that the Hindu religion does not claim any prophet, it does not worship any one God, it does not subscribe to any one dogma or believe in any one philosophical concept, it does not satisfy the traditional features of any religion or creed, and that "it

may broadly be described as a way of life and nothing more." The present three-judge Bench has relied on these and other observations in the aforesaid judgement and come to the conclusion that Hinduism is the way of life of all Indians.

In deriving this conclusion, the present three-judge Bench has overlooked the fact that the same judgement has also described what the essential features of the Hindu religion are. The judgement says: "Beneath the diversity of philosophic thoughts, concepts and ideas expressed by Hindu philosophers who started different philosophic schools, lie certain broad concepts which can be treated as basic". The judgement in that case goes on to say that amongst these basic concepts is the acceptance of the Vedas as the highest authority in religious and philosophical matters and also the belief in rebirth and pre-existence. The judgement also mentions that according to the Hindu religion, the ultimate object of humanity is "the release and freedom from the unceasing cycle of births and rebirths; *moksha* and *nirvana*, which is the ultimate aim of Hindu religion and philosophy... The judgement further says that Hindu religion "can be safely described as a way of life based on certain basic concepts to which we have already referred. (Emphasis supplied).

These observations clearly mean that the Hindu religion, inspite of its diversity of doctrines, has some basic concepts which are common to all Hindus and which guide their way of life. Obviously, these concepts are different from those of Muslims, Christians and other religious communities. It is therefore not right to adduce from this judgement that Hinduism is the way of life of the present Indian citizens belonging to different religions.

Tilak's *Geetarahasya*

No such conclusion can also be derived from the other case, the Commissioner of Wealth Tax and Others. In that case, a father and his son born from a Christian wife were held to form a joint Hindu family for the purpose of wealth tax. The extracts

from authoritative texts quoted in this case also show that Hinduism is the civilisation of Hindus and it includes their religion and other cultural traits. Moreover, both this as well as the earlier case of Sastri Yagnapurushadji quote with approval the definition of Hindu religion given by B. G. Tilak in *Geetarahasya* which is as follows :

"Acceptance of the Vedas with reverence; recognition of the fact that the means or ways of salvation are diverse; and realisation of the truth that the number of gods to be worshipped is large, that indeed is the distinguishing feature of Hindu religion".

It is clear that this case also does not support the conclusion of the three-judge bench that *Hindutva* or Hinduism means the culture not only of Hindus but of the Indian people as a whole.

The present three-judge Bench was therefore wrong in holding that an appeal for votes on *Hindutva* or Hinduism does not by itself amount to a corrupt practice as defined in Section 123(3) of the Representation of the People Act, 1951.

An Unsupportable Decision

Turning to the decision of the three-judge Bench in Manohar Joshi's case, it was an admitted fact that Manohar Joshi whose election had been set aside by the Bombay High Court but now restored by the Supreme Court had admittedly stated in one of his election speeches that "the first Hindu State will be established in Maharashtra". This clearly means that if the electorate voted in favour of Manohar Joshi and other candidates of the Shiv Sena-BJP combine, they would establish a Hindu State in Maharashtra and that it will be the first Hindu State in any part of India. The voters who wanted a Hindu State were thus invited to vote for him and for the Shiv Sena-BJP combine. The Supreme Court, however, held that this was not an appeal on the ground of religion. It observed: "In our opinion, a mere statement that the first

Hindu State will be established in Maharashtra is by itself not an appeal for votes on the ground of religion but the expression at best of such a hope".

It is indeed very strange that the expression of the hope that the voters will succeed in creating a Hindu State in Maharashtra was not held by the Supreme Court to be an appeal to vote for the creation of such a State. The decision is unsupportable.

As explained by the Supreme Court itself in other cases, secularism means that while the people are entitled to profess, practice and propagate their religion, the State will have no religion of its own. An appeal for the creation of a Hindu State is obviously contrary to the principles of secular democracy and is a corrupt practice under Section 123(3) of the Act.

Candidate and Party Manifesto

In the case of Prof. Ramchandra Kapse, one of the questions which arose for decision was whether the election of a candidate can be set aside on the basis of what was stated in the election manifesto of the party of which he was a candidate. Prof. Kapse was a BJP candidate and the BJP in its election manifesto had appealed for votes by referring to the Ramjanmabhoomi Babri Masjid issue. The three-judge Bench proceeded on the basis that the manifesto did contain an appeal to vote on the basis of religion. But the Bench gave two reasons for holding that Prof. Kapse did not commit any corrupt practice on account of his party's election manifesto. Firstly, the Bench observed that the BJP was registered as a party by the Election Commission under Section 29A of the Representation of the People Act, 1951, which required that the principles of socialism, secularism and democracy, among others, should be expressly endorsed in the constitution of every party which applied for registration. Secondly, the Supreme Court Bench observed that no part in the drafting of the manifesto or specific view in the election campaign were attributed to Prof. Kapse.

Now, Section 29A does not re-

quire the Election Commission to make any enquiry on whether after the registration, the party continues to act according to the principles embodied in its constitution such as secularism and democracy. The fact that Dr. Kapse was not alleged to have participated in the drafting of the manifesto or made use of the manifesto in the election was also not decisive of the question whether he used religion for the purpose of securing votes. When a candidate accepts the nomination of a party, he obviously accepts the election manifesto of the party. The election manifesto is circulated among the voters. The circulation of the manifesto must, under the circumstances, be held to have been done with the candidate's consent. It is proper to hold that every candidate who accepts a party's nomination endorses what is stated in the party's election manifesto. The manifesto itself is an appeal for votes and it is obvious that an appeal contained in a party's election manifesto is made with the consent of the candidate who accepts the party's candidature. If the view of the Supreme Court in this behalf is accepted, the result would be that a candidate may succeed with the help of a manifesto which appeals for votes on account of his religion and yet his election would be valid.

These decisions of the Supreme Court Bench are thus highly derogatory to the principle of secular democracy and the letter and spirit of Section 123(3) of the Representation of the Peoples Act, 1951. It is to be hoped that a larger Bench of the Supreme Court will on a future occasion reconsider these decisions and undo the great harm caused by them.*

MR. V. M. TARKUNDE is a retired judge of the Bombay High Court.

COURTESY: *Radical Humanist*.

After this article was written, a Review Application came up before the Supreme Court but was rejected by Justice Verma, who reacted sharply, saying if the judgement is misunderstood, what could he do. Similar Review Applications are pending for hearing before a larger Constitutional Bench. Editor.

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BOOK REVIEWS

GUJARAT - A POLITICAL ANALYSIS, by Nagindas Sanghavi; Centre for Social Studies, Surat; 1996; pp.333; Rs.250. (Distributors: Kitab Kendra, Sahitya Seva Sadan, near Gujarat College, Ahmedabad 380 006).

G U J A R A T
A POLITICAL ANALYSIS
NAGINDAS SANGHAVI

Centre for Social Studies
Surat

Reviewed by
R. Srinivasan

This is the first book exclusively devoted to political developments in Gujarat and is to be welcomed. The newspaper reader has stereotypes about the State and the book should correct simplistic impressions about the State, its peoples and politics.

The author begins by emphasising and appropriately so the need for examining in depth the politics of the states of the Union, for these intermesh with national politics and are in turn affected by the centre and its policies. Regionalism is not something to be looked at askance for the last decade has seen the importance of regions influencing national politics and the present developments are a culmination of an inevitable process in the Indian political system.

A detailed account of the geographical division of Gujarat and its regions helps us understand the influences of the different regions of Gujarat society and politics. A brief historical account of the pre-colonial period and

of the social distinctions have been provided. The author reminds us that in certain regions, extremes of well-being as well as of starvation coexist and these in turn affect the politics of the regions and the state. Like Maharashtra and Bengal, the latter half of the last century saw hectic social change, attempts at reforms, a new confidence and an intellectual awakening among sections of the people. Economic activities registered a rapid rise in certain sectors. The numerous tiny princely states dotting the northern parts contributed their share of problems to the integration of the country after independence. After integration, the princes of the larger states, particularly Baroda, created problems for effective governance in spite of being in the cabinet. In no state in India did the princely states have the significance that they had in Gujarat.

Politics in the contemporary sense of political participation, elections and parties was heightened after the formation of a unilingual Gujarat state. The author, in five detailed chapters, narrates the developments till 1990. The peculiar geographical divisions of the state, further accentuated by history have made the politics of the state prone to inter-regional rivalries and to factionalism. They seemed to have dogged the politics of the state, accentuated by the grim determination of tall leaders wanting to disseminate the politics of the land - Morarji Desai, Dr. Jivraj Mehta, U. N. Dhebar and Balwantraji Mehta are not only names that stalk through the pages but the author's account shows their inadequacies as statesmen very well e.g. Dr. Jivraj Mehta and Balwantraji Mehta. Certain other regional leaders keep bobbing up continually and they hope all the time to rise to positions of importance but generally tend to be troublesome rather than constructive.

The persistence of communalism for nearly thirty years from the late 'sixties and the near anarchical situa-

tion resulting from the Nav Nirman movement and later due to the anti-reservation riots, and five months of unabated agitations, all make the politics of the state not only unique but have put the experience to an unenviable situation. One does not know if anything similar to the revolt of the police that took place here has ever had a parallel of such intensity anywhere else in recent times. If we except the Telengana agitation, no state in the peninsula has had a similar record of periodical repetition of civil disruption - criminalisation of politics here has not lagged behind the classical states of Bihar and U.P.

In spite of these, the politics of cabinet formation, the keeping out and inclusion of ministers, the questionable loyalty of cabinet colleagues and casteist considerations and the attempts of chief ministers just to stay afloat, all are a gloss of Schumpeter's classical account of "real democracy". However, we notice that competitive political parties emerged and tried to capture power or checked the government. The Swatantra Party was able to rise and for a brief period held out a promise which was rapidly frittered away. During the Emergency, it was Gujarat along with Tamil Nadu that kept the entry of Indira's regime at bay. It later was able to give an entry in politics to sections that had no access to political power, such as the tribals. In fact, it was the only mainland state where a tribal could become Chief Minister and not one who could be regarded as an ineffective one.

Many of these are detailed, narrated and analysed in the five chapters on political development and this makes it a valuable book of reference. The process of elections both at the state and the local levels are examined in depth with tables in a separate chapter. Another chapter lays bare what political scientists call legislative behaviour; these two chapters have rich data.

The epilogue tries to bring the

developments upto date till 1995. The emphasis in the book is on the immediate politics of the state and many of the details here are but dim memories for most people. The focus is on the State rather than on local governments or on panchayati raj. It is not likely that the account given of the politics of ministry-making or of factional differences will be superseded for quite some years to come. This supplements the books that have appeared on the politics of other states such as Maharashtra, Andhra Pradesh, West Bengal and Tamil Nadu. Cumulatively, these will help us to understand the politics of India in better perspective. Doubtless, the book will be reprinted and updated. When this is attempted, the numerous printing errors will have to be corrected.

DR. R. SRINIVASAN is retired Professor of Politics, Bombay University and Associate Editor of *Freedom First*.

MAHARASHTRA 1858-1920 by B. R. Sunthakar; Popular Book Depot, Mumbai; 1993; pp.704; Rs.400.



**Reviewed by
J. V. Naik**

The book under review is, as stated by its author, 'a sequel to and companion volume' of his earlier work, *Nineteenth Century History of Maharashtra 1818-1857*, published in 1988. The two volumes together cover a century of the history of renaissance Maharashtra from the time of the establishment of British rule in 1818 to

the death of Lokmanya Tilak in 1920. It is the history of the emergence of modern ideas of nationalism and the development of social protest and religious dissent; of the ideological struggle between those who wished to reform society on the basis of rational-liberal values that came in the wake of British rule and the defenders of the old inequitable social order; of the differing perceptions of the educated elite regarding British rule, some viewing it as "divine providence" and the others as "bitter curse". Above all, it is, in essence, a history of the rise and growth of liberal ideas and institutions.

The author is a noted student of M. N. Roy and his New Humanism. He has rendered into Marathi a number of Roy's books. He tells us that he laboured for 14 long years to complete the present work which, he rightly claims, is "the first attempt to compile a fairly comprehensive history of Maharashtra from 1818 to 1920". He is, however, candid in informing the reader that "this is mainly a history of western Maharashtra, which has been the main stage of action during this period", and that it is not without its drawbacks.

In a short review it is not possible to do justice to a book running into 27 chapters of sizeable length and dealing with several different aspects of modern Maharashtrian history beginning with the formal transfer of power from the Company to the Crown after the Revolt of 1857. All that we can do here is to touch upon some striking features of the book which may create sufficient interest in the reader to go through this extremely well produced volume from cover to cover.

The opening chapter, "Period of Imperial Domination" serves as a prelude to an understanding of the political developments during the period 1856-1905. It provides some insights into how, during this period, the rulers, though they recognised the necessity of associating Indians with the governing process in some form or the other, were determined to keep the Empire intact at any cost. This is followed by a review of developments

in Maharashtra with regard to administrative set-up, agriculture, irrigation, forests, famine policy, khoti land tenure and education.

All the principal socio-religious movements - the Prarthana Samaj, the Satya Shodhak Samaj, the Arya Samaj, the Theosophical Society - are covered in a single chapter, "Religious Reform Movements". Jyotirao Phule and Satya Shodhak Samaj rejected the Aryan heritage and thus represented a fundamental revolt against Brahmanical culture. Therefore, they form a special historical category and should have been treated as such in an independent chapter. As regards the Prarthana Samaj, it should be noted that K. C. Sen's second visit to Bombay was in 1868, that is after the establishment of the Prarthana Samaj, and not in 1867 as stated by the author. This is important for, contrary to the general belief, Sen's missionary tour of Bombay in 1864 had no direct bearing on the founding of the Prarthana Samaj on March 31, 1867, though its leaders never failed to acknowledge their debt to the Brahmo Samaj.

The degree of unrest among the masses driving them to desperation is well brought out in the chapters on agrarian discontent and the Deccan riots. There is a good account of the rebellion of Vasudeo Balwant Phadke and a critical appreciation of the work of Vishnushastri Chiplunkar and his disciples who symbolised the changing mood and temper of the nation under the blundering administration of such imperialists as Lord Lytton. The contribution of Ganesh Vasudeo Joshi and the Poona Sarvajanik Sabha in exposing the ills from which India suffered under an obstinate bureaucracy, and in the promotion of swadeshi, is adequately evaluated.

In the chapter entitled "... Prophet of Liberalism", the monumental work of M. G. Ranade, who was the moving spirit behind almost all renaissance movements in Maharashtra, is reviewed with an understanding worthy of that great liberal, who should be regarded as a liberal with a capital 'L' but of genuine Indian vintage. No

less illuminating is the chapter on G. K. Gokhale and the Servants of India Society. A worthy disciple of Ranade and doyen of Indian liberals, Gokhale was a great votary of humane, democratic and secular nationalism.

The ideological conflict and the growing rift between the militant rationalist reformer G. G. Agarkar and the social conservative B. G. Tilak leading to their parting of ways, as also the fundamental differences between the Moderates and the Extremists form the subject matter of two well written chapters viz., "New Horizons" and "Rising Tide". The author's account of "Hindu-Muslim Riots" is fair and objective. The contribution of the revolutionaries to the freedom struggle is duly assessed.

The last few chapters revolve round the activities, trials and tribulations of Lokmanya Tilak who subordinated everything else, including social reform, to an all-powerful urge for freedom first.

Without detracting from the merit of the author's painstaking efforts, it needs to be observed that his chapter scheme, and even the headings of some of the chapters, leave much to be desired. In some chapters he has crammed material without a proper plan and, therefore, they lack focus, light comes but in scattered rays. He should have done well in tracing the development of literature, fine arts, etc. in independent chapters as he has done in the case of "Economic Thought".

The three appendices : (i) Life-sketches of sixteen 'Eminent Personalities', (ii) 'Manifesto of the Congress Democratic Party', (iii) 'The Taj Maharaj case' - enhance the value of the book. Another interesting feature of the book is that it contains passport size photographs of 40 worthies, both men and women, including M. A. Jinnah, under the caption "Architects of Maharashtra". As the science of photography had not arrived in Maharashtra until the 1850s, the pic-

tures of Bal Shastri Jambhekar (1812-1846) and Bhaskar Tarkhadkar (1816-1847) naturally do not figure amongst the said worthies; but what prevented the author from including Dadoba Pandurang (1814-1882), the 'Panini of Marathi grammar' in the portrait gallery? One also wonders why the photograph of Badruddin Tyabji is not there when the other two - Pherozeshah Mehta and K. T. Telang - of the famed triumvirate have duly figured! Obviously, these are inadvertent omissions which, we hope will be duly rectified in the next edition of the book.

PROFESSOR J. V. NAIK is former Head of the Department of History, University of Bombay.

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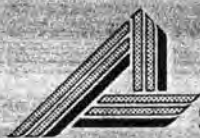
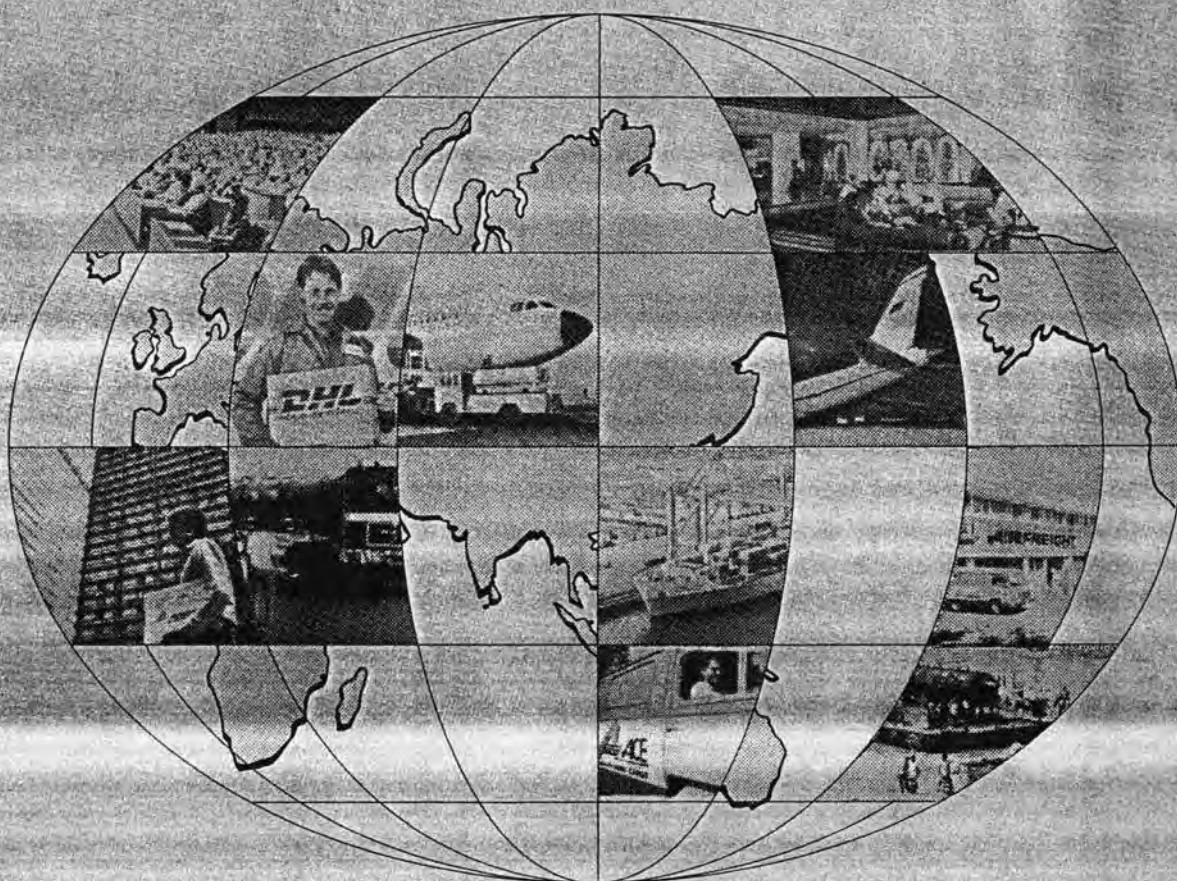
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