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# **BOOK REVIEW**

## HINDU 5.4.11 BOOK REVIEW

### **A different take on Dalit studies**

BHUPENDRA YADAV

#### **DALIT ASSERTION IN SOCIETY, LITERATURE AND**

**HISTORY:** Edited by Imtiaz Ahmad, Shashi Bhushan Upadhyay; Orient Blackswan Pvt. Ltd., 3-6-752, Himayatnagar, Hyderabad-500029.

The caste system has resulted in the creation of an elaborate pecking order or hierarchy into which the 4,000-odd castes in India have been slotted. Hence the arguments and counter-arguments and the claims and counter-claims about the relative status of different castes. Secondly, the caste system is based on a difference created by the 'accident' of one's birth, a feature that is sustained and perpetuated by a societal ethos that bars inter-caste marriages. As a consequence, the socio-cultural life of different castes is mostly spent in 'splendid isolation' of one another.

#### Hierarchy

The basic thrust of Dalit Studies has been mostly on the different dimensions of hierarchy and the pain inflicted by it. This book, on the other hand, is a welcome addition to the relatively small volume of work on difference and its implications for Dalit assertion. It has 15 chapters grouped under four thematic heads — the Dalits, Dalits in history, society, literature and among the minorities.

The term 'Dalit' denotes one single unit, but, like an orange, it has several segments. In the opening essay on "Resolving Dalit identity", Jyotsna Macwan and Suguna Ramanathan note, regrettably, that "caste divisions flourish among poorer sections whom they hurt the

most.”

The horror story Smita Patil narrates from the autobiography of Baby Kamble, a Dalit writer, runs along these lines. For the women among Dalits, it is ‘triple whammy’. Patriarchy victimises Dalit women as much as ‘impurity’ associated with their caste and the social exploitation. Dalit girls are married at as young an age as eight or nine. They are punished by their in-laws without inhibition or restraint for not meeting their endless demands in housekeeping. Should the harassed girl try to escape, she is caught, and a wooden log is fastened to her leg through a hole hewn in the foot. In “Exploring Dalit Women's Oppression,” Padma Velaskar says, the experience of Dalit women is “destructive” due to what she calls the “multidimensionality, simultaneity and intensity of oppression.” It is no secret that caste differences exist even in religions other than Hinduism, and this in fact shows that Christianity and Islam are indeed the organic products of the Indian soil. The extent of stigmatisation and exclusion faced by the lower castes among Muslims and Sikhs respectively is discussed by Imtiaz Ahmad and Ronki Ram.

Yoginder Sikand says that contemporary Indian Muslim scholars advise against marriage between people of unequal status. Arguing that the divide between the high-born and the low-born among Muslims goes as far back as the 14th century, he refers to Ziauddin Barani, a Turkish scholar, who in his *Fatwa-i Jahandari* requests his master, Mohammad bin Tughlaq, to order that nothing other than the religious injunctions related to fasting, praying, charity and pilgrimage should be taught to the ‘mean’ people. Barani also wants teachers to be punished if they imparted education to the ‘low born’ because “plenty of disorders arise owing to the skill of the low born in knowledge.”

Prathama Banerjee's “Caste and History Writing” is interesting, but

somewhat disappointing. She tries to show that the history of caste may not have the same chronological trajectory as that of a nation or a religion. While proposing the centrality of the body in the history of caste, Banerjee says people of different castes live in separate areas, limit contact with each other according to the pecking order, and observe different social etiquette with people of other castes, etc.

### Intimate knowledge

At the same time, Banerjee quotes, approvingly, a statement which says that Dalit women scavengers had intimate knowledge of the households from which they were excluded and goes on to specify the means by which they do so. Surely, there have been much simpler methods of getting to know others' habits, what they ate and so on. Unlike technologists, social scientists are not expected to solve problems or even answer fundamental questions. They would have done their job well if they raised some searching questions. By raising such questions from diverse perspectives, the contributors have enriched this volume. The book deserves to be read by those who are tired of listening to the wails of the “pilgrims of darkness”, while those who are put off by the writings of the narrowly focussed specialists in Dalit studies will find its wide sweep particularly appealing.

## HINDU 5.4.11 BOOK REVIEW

### **India's security predicament**

CHITRAPU UDAY BHASKAR

**ARMING WITHOUT AIMING** — India's Military Modernisation: Stephen P. Cohen, Sunil Dasgupta; Penguin Books India Pvt. Ltd., 11, Community Centre, Panchsheel Park, New Delhi-110017. Rs. 499.

The Comptroller and Auditor General's report, recently tabled in Parliament, that bemoans the cost and time profligacy afflicting India's indigenous defence industry, provides the appropriate context for the book under review. In an unambiguous indictment of the Defence Ministry and the affiliated public sector bodies, the CAG says the “approved costs” of two prestigious ship-building projects awarded to the state-owned Mazagon Docks by the Indian Navy had gone up a staggering 240 per cent. The total cost climbed from Rs.5,830 crore to Rs.19,763 crore, and it is likely to increase further by the time the projects are completed.

#### Lacuna

Cohen and Dasgupta have identified a major and critical lacuna in the Indian higher defence apex — the disconnect between acquisitions and inventory accretion by the military, on the one side, and a well-thought out and objective strategic rationale, on the other. What compounds it is the indifference of the politico-bureaucratic combine to this critical linkage. Thus “arming without aiming” is an attractive and alliterative title to a complex and long neglected theme of the Indian octopus, with its myriad tentacles.

The argument advanced, however, is nuanced in a delectable manner. While the authors contend that “India's military modernisation has lacked political direction and has suffered from weak prospective planning, individual service-centred doctrines, and a disconnect between strategic objectives and the pursuit of new technology...”, they also offer a reason for this dissonance. “Strategic restraint” is the phrase chosen to describe the diffidence and reticence of the Indian civilian security apex — that subsumes the executive, the legislature and the bureaucracy.

“While expensive and redundant, India's approach of arming without strategic purpose is not without wisdom. The political preference of restraint has wisely sought to escape the security dilemma rather than embrace it...” This is curious wisdom ascribed to India and it is this kind of seemingly empathetic interpretation by the authors that detracts from what could have been a compelling critique of the Indian security experience.

Lead author Cohen is an acknowledged U.S. scholar who has ploughed the South Asian security and military domain for decades, and his books on the Indian and Pakistani fauj are standard reference material for the student and the analyst. Thus the expectation of the reader is whetted when the venerable Cohen critiques a very critical theme — but the results are mixed. As a quick survey of the complex Indian security predicament and as an easy-to-comprehend ‘101’, one would have no hesitation in recommending this volume to the Indian policymaker. But on reflecting upon the fine-print (which incidentally is too fine... and a larger font would have been welcome), one feels the authors have ‘aimed’ at too many issues in setting up a vast target and firing many ‘shots’, but the bullseye remains elusive.

Overview

The eight chapters move from providing a lucid overview of the scholarship that has preceded this volume (from the 1992 Tanham thesis to Pant's 2009 Indian foreign policy critique) to discussing a number of themes. These range from the ethos and evolution of India's orientation (the introductory essay) to matters military (Nehru and non-alignment) to the challenges of reform, the snapshots of the three armed forces, the police, institutional inertia, and finally to the India-U.S. bilateral relationship with some prescriptive bullets. The sheer range is daunting, but the interpretative tautness is missing.

The objective context to the arming of India is too sweeping, as for instance while analysing the China factor in the Indian calculus, and some vital facts are inaccurately advanced. India's defence expenditure as a percentage of GDP is averred to be over five per cent in the 1980s, while the citation mentions three per cent. Is there a case for more accurate 'aiming'?

But notwithstanding these Irish pennants, the assertion in the concluding part is import-laden for the Indian policymakers. "Both India and the U.S. understand that they do not have resources for a full-scale engagement on two fronts: with China, on the one hand, and Islamic extremism, on the other." Astutely aimed arming by India will ensure that the first exigency does not occur and the second is effectively quarantined.



# **EDUCATION**

## HINDU 7.4.11 EDUCATION

### **What price 'foreign providers'?**

K.N. Panikkar

*The proposal to permit foreign educational providers to function in India will do considerable harm to the independent development of Indian education.*

The steps to regulate the operation of foreign educational institutions in India, as contained in a Bill under Parliament's consideration, are welcome initiatives. As the Minister for Human Resource Development pointed out while introducing the Foreign Educational Institution (Regulation of Entry and Operation) Bill, "a large number of foreign educational institutions have been operating in the country and some of them may be resorting to various malpractices to allure and attract students." The absence of a "regulatory regime," he said, has "given rise to chances of adoption of various unfair practices, besides commercialisation." These institutions function under several disguises, exploiting the obsession of the Indian middle class for certification from foreign institutions. The proposed legislation is intended to restrain such institutions and their malpractices, through administrative, academic and financial regulation.

These steps will have universal approval, except from those who are the beneficiaries of such practices. The implications of the Bill, however, go beyond the stated objectives. It will give official approval to what is currently being done surreptitiously, by enabling foreign 'educational providers' to set up campuses in India. It is possible that this may not attract a large number of quality institutions to invest money and set up campuses. Yet, in the event

of even a limited entry of foreign institutions, India's educational system will face certain challenges.

The general assumption is that it would improve in quality through competition, and increase access due to the availability of a larger number of institutions. Both these possibilities are attractive to the members of the upper crust of the middle class who have reached positions of power from the colonial times through education in good foreign universities. Even a cursory survey of India's power elite during the last century will indicate that their dominance is primarily rooted in such educational opportunities. The 'open doors' policy of the government will make foreign education available at the doorsteps, which accounts for the popular support from the intelligentsia and the English- educated middle class.

An apprehension among the intelligentsia is about the possibility of the misuse of liberalisation by 'fly-by-night operators' by using the investment opportunity for quick returns. The Bill seeks to allay this genuine fear by providing for administrative control, financial safeguards and academic vigil. To qualify for registration as an educational provider, an institution should have been in the field of educational services for 20 years and have a corpus fund of not less than Rs. 50 crore.

Secondly, any surplus revenue can be invested only for the growth and development of educational institutions established in India. The Bill stipulates that the quality of education should be comparable to that imparted on the institution's main campus. It is assumed that these stipulations, along with the administrative formalities to ensure the fitness of the institution to provide quality education, will make the participation of 'foreign providers' a positive asset to the nation.

On the contrary, the Bill, if it is passed by Parliament, is likely to have a long-lasting adverse impact on the national character of

education, which has not yet fully emancipated itself from the intellectual influences of colonialism. Nobody expects the foreign education providers to swamp the scene. It is also true that they will not provide mass education. Their operations will by and large be confined to specialised areas. Yet, the open policy will introduce a new stream in Indian educational system. Philip Altbach has brought to our notice that in a couple of countries where branch campuses exist, they “are fairly small and almost always specialized in fields that are inexpensive and have a ready clientele.” It will be unrealistic to expect these campuses to train undergraduate students in the social sciences or the humanities. Understandably, they are not going to make any substantial improvement in the matter of access to higher education.

There is greater expectation in the matter of improvement in the quality of education, as the main rationale for ‘importing’ these institutions could only be their superior academic credentials. Therefore, it is reasonable to expect them to help improve the standard of instruction. With this in view, the Bill lays down the following: “A foreign education provider shall ensure that a course or programme of study offered and imparted by it in India is in conformity with the standards laid down by the statutory authority and is of quality comparable, as to the curriculum, methods of imparting education, to those offered by it to students enrolled in its main campus in the country in which such institution is established or incorporated.” The conditions and quality of education of the ‘mother’ institution being replicated on the new campuses is a doubtful proposition. Yet, their presence itself, in however clipped a manner, will have serious cultural and academic implications.

The idea of transplanting the curriculum and pedagogy of foreign institutions, as envisioned in the Bill, attributes a universal character and purpose to education. Even when fundamental principles of education are commonly shared, the fact remains that the

development of education is integrally linked with the demands of specific societies, and it plays a crucial role in development and nation-building. More important, education is a defining factor in moulding a nation's identity. No country can, therefore, entrust the responsibility of educating its citizens, even a part of it, to external agencies that have no stake in the nation except their own self-interest.

That foreign educational providers will be required to follow the same curriculum and pedagogy is claimed as a positive factor. In fact, that is the most undesirable part of the scheme, as the cultural assumptions of curriculum and pedagogy differ from nation to nation. The borrowed contents and practice of education may not lead to a 'cultural invasion', as feared by some critics and dismissed by its defenders. But they will certainly be affected by cultural incompatibility, which in turn will defeat the creative and innovative possibilities inherent in education. Education is an organic process that cannot be borrowed or super-imposed on a society. The main weakness of the new scheme is its externality; this is suggested even in the term 'education provider.'

This is not to suggest that Indian academia need no exposure to the global community or relationships with institutions abroad. On the other hand, there is a case for greater professional exposure and institutional collaboration. Before the Bill is passed, the different possibilities for achieving them deserve to be debated. Among the many ways in which international academic linkages can be established, two deserve attention. The first is, as provided in the Bill, to permit foreign universities to start campuses. The second is to establish collaborative arrangements with specialised institutions for the exchange of teachers and students. The first is an easier option and is in consonance with overall state policy. Even if it is successfully implemented, it will only create a few more islands of excellence. It will also deplete the already weak academic resources

of the existing institutions.

An alternative paradigm is being pursued by Kerala and it has been successfully implemented during the last five years. It is based on a principle of sharing knowledge generated by scholars all over the world. In pursuance of this, a large number of outstanding scholars, including Nobel laureates, have been brought to the State for interaction with teachers and research scholars. Combined with collaborative arrangements with reputed universities and substantial increase in the allocation of funds to universities, higher education in the State is poised for a leap. The perspective is long-term growth from within by invigorating the State's academic resources.

In this respect, the manner in which U.S. and European universities have organised their Indian studies programmes is worth emulating. They did not persuade Indian universities to organise their mini-campuses, however competent and reputed they are in Indian studies. Instead, they invited scholars from India to work in these centres to help organise academic programmes. Some of these centres have become reputed institutions of research in Indian studies. So much so that the Government of India has found it necessary to institute endowments in them for the study of Indian civilization. The proposal to permit foreign educational providers to function in India will do considerable harm to the independent development of Indian education. Instead of contributing to the making of the national identity, it is likely to create a social stratum that is intellectually far removed from the nations' concerns.

The immediate response to the Bill generally would have been to scrap it — but for the provision to regulate the operation of foreign educational providers.

In the circumstances, the best solution will be to refashion the Bill with provision to prevent the operation of foreign educational

providers and introduce sufficient space to promote independent interaction and collaboration with global academia.

*(Dr. Panikkar is Vice-Chairman of the Kerala State Higher Education Council: knpanikkar@gmail.com)*

# **GOOD GOVERNANCE**



**Now we are 1210 million  
Need for reforms in urban governance**

B.G. Verghese

THE major outcome of the preliminary results of the 2011 Census of India is not that we are now 1210 million, or more than the US, Indonesia, Brazil, Pakistan, Bangladesh and Japan combined, but that the decadal growth rate is down by 3.9 per cent despite the overall numbers rising by a huge 181 million. Most laggard northern states have shown a welcome decline in fertility and an improvement in female literacy. These are heartening trends but the female child sex ratio has gone down, signifying the continuing tragedy of the unwanted girl child earlier reported even in some of the more progressive northwestern states.

Literacy, including female literacy, has markedly improved and we should be able to attain universalisation of primary education by or before 2021, over 60 years after the constitutional promise. The goals must now be universalise secondary education by the same time as emerging India will not emerge if a large swathe of society remains semi-illiterate and unable to imbibe the vocational and professional skills required to move requisite numbers off the land to industry and services with higher farm productivity to boot.

The country must add 10 million jobs net annually gainfully to absorb the net incremental growth in the labour force. Steady 9 per cent growth per annum through the decade should enable us to eliminate stark poverty and significantly improve HDI and guarantee the basic services listed under the millennium development goals. But this will require a vast expansion in trained manpower. The demographic gain we foresee

from a younger age profile will remain a burden unless quantity translates into quality.

Uttar Pradesh has a population just short of 200 million while Maharashtra ranks next with 112 million. Other big states sport numbers in the 75-100 million range. This clearly underlines the case for smaller and more compact states and also the need for another states reorganisation commission to recommend the contours of new units on economic and administrative grounds. Identity and ethnicity can be accommodated through regional autonomy and further empowerment of panchayati raj institutions, which would also make for more participative government and accountability.

The census figures for urban growth are not yet available, but urbanisation has clearly seen a marked rise and the country should have a majority living in towns and cities by 2031. This calls for major reforms in urban governance which is today untidily fragmented – with Delhi being a particularly bad case – and some interlocking arrangements to bring metro/ nagar palikas and panchayati raj bodies together for a number of common purposes such as water and sanitation, connectivity and market access, and superior educational and health services. Cities must organically function as hubs and dynamos for the surrounding countryside which they serve even as they are serviced by it.

Further action points will emerge as the census numbers are crunched in the months ahead and the first Unique Identification Number of residents is distributed.

Meanwhile, the pundits got it totally wrong. The India-Pakistan semi-final for the World Cup in Mohali was no “war” but an enjoyable sporting contest. Neither side played up to its potential, but in the result India registered a fairly comfortable win though there were moments when the match seemed to be going away. The atmosphere was charged with excitement, with a number of Pakistani fans in the stands. But there

was an air of bonhomie and the “aam admi” on both sides thought that it was a good idea for Dr Manmohan Singh to have invited his counterpart, Mr Yousuf Raza Gilani, to join him in witnessing the event.

The usual critics went overboard, characterising the initiative as a diplomatic blunder that let Pakistan “off the hook”, comparing it to the Sharm El-Sheikh “fiasco”. The communiqué then issued did not altogether delink talks from terror. Nor did it allow Pakistan to score a point by permitting reference to Balochistan. Indeed, the addition of Balochistan to the agenda has embarrassed Pakistan as it has been unable to lead any credible evidence about India’s alleged intervention there while giving Indians an opening to question the continuing suppression of the democratic rights of the Balochi people.

The Manmohan Singh-Gilani meeting was largely symbolic but it generated the right atmospherics, reinforcing the happy outcome of the Home Secretaries’ meeting which suggests the possibility of some forward movement in the 26/11 case if an Indian commission can meet the other Pakistani accused now on trial in Rawalpindi. Nothing has been lost and something has been gained.

As for the match itself, Shahid Afridi had no reason to “apologise” to the people of Pakistan for his team’s defeat. An expression of disappointment was certainly in order but an apology sounds as though the match was indeed a “war” that had been lost, bringing dishonour and disgrace not just to the team but to the country. This was an unintended note that jarred and could have been avoided as it is reminiscent of an earlier Pakistani captain apologising to all Muslims for Pakistan’s defeat, presumably at the hands of of “Hindu India”. It is time to bury the hollow and vicious two-nation theory that has brought grief to the subcontinent and robbed Pakistan of its soul. India too must curb obscurantist and chauvinistic tendencies by indulging in silly acts such as threatening a ban on Joesph Lelyveld’s new book on Gandhi.

Finally, one must question the vesting of leadership of the war in Libya to NATO, a Western military alliance outside and beyond the rubric of the United Nations. The world body is being insidiously dragged in as in Afghanistan without accountability to it. This is a worrying trend, More so when Mr Obama is reported saying that US agents are being tasked to undermine Colonel Gaddafi. Regime change is not part of the UN mandate.

### **The essence of good governance**

### **Free, frank and uninhibited expression of views by the Secretary to the Minister holds the key to healthy ties**

Dharam Vir

AN important question embedded in the Audit Report on Issue of Licences and Allotment of 2G Spectrum of the Comptroller and Auditor-General of India (CAG) concerns the relationship between the Secretary to the Government of India and the Union Minister.

As recounted in the CAG's Audit Report, the Finance Member of the Telecom Commission, Department of Telecommunications (ex officio Secretary to the Government), had recommended an in-depth analysis of the issues relating to entry fee for granting new licences. The Telecom Secretary concurred in the recommendation.



The recommendation was also in line with the views of the Ministry of Finance that carried the personal endorsement of the Union Finance Minister. However, the Telecom Minister overruled the recommendation of his Ministry's Secretary and the Finance Member in the following words:

“Officers have neither up-to-date knowledge of the Unified Access Service (UAS) guidelines nor have they bothered to carefully go through the file...These types of continuous confusions observed on the file whoever be the officer concerned does not show any legitimacy and integrity but only their vested interest...The matter of entry fee has been

deliberated in the department several times in the light of various guidelines issued by the department and recommendations of TRAI (Telecom Regulatory Authority of India) and accordingly decision was taken that entry fee need not be revised.”

According to media reports, the Secretary recused himself from handling the case any further and retired from service soon thereafter; the Finance Member also put in her papers for voluntary retirement. According to the Government of India (Transaction of Business) Rules, 1961, all business of a Ministry shall be disposed of by or under the general or special orders of the Minister except where it requires consultation with other Ministries or the approval of the Prime Minister or the Cabinet. The rules also stipulate that the Ministry’s Secretary shall be its administrative head and he shall be responsible for the transaction of business and the careful observance of the rules in the Ministry.

In a democracy, it is generally accepted that the Secretary provides the inputs for policy formulation but it is the Minister who is ultimately responsible for the policy while the Secretary as the head of the departmental hierarchy oversees its delivery and implementation. But the lines between policy and its implementation can often be blurred, particularly with several big ticket transactions requiring the approval of the Minister or a Cabinet Committee or even the entire Cabinet.

Free, frank and uninhibited expression of views by the Secretary is the essence of healthy relationship between the Secretary and the Minister and indispensable to good governance. While the Secretary should feel free to “speak truth to power”, “power” should also be receptive to “truth”.

It was in keeping with the above that Sardar Vallabhbhai Patel had assured his Secretaries that he would never be displeased over a frank expression of views. He had told them, “if you cannot give your honest opinion for fear that it will displease your Minister, please then you had better go. I will bring another Secretary”.

Incidentally, Sir Winston Churchill is reported to have once eased out a Permanent Secretary on the ground that the latter did not formally record his opinion on the file.

The intention is that the Secretary should neither second-guess the Minister, nor wait till the Minister has made up his mind and then make a case for it, but render apolitical, impartial, independent and professional advice guided solely by considerations of larger public interest and good governance.

The duties and responsibilities of the Secretary as the Chief Accounting Authority of his Ministry formally codified and notified in 2005 make him fully responsible for the stewardship of the Ministry's finances from budget construction to implementation and the achievement of programme objectives besides ensuring proper maintenance of accounts. The essence of his responsibility lies in securing effective, efficient, economical and transparent use of the resources of the Ministry, whilst complying with performance standards. This corresponds more or less to the responsibility of the Permanent Secretary in the United Kingdom in his role as the Department's Accounting Officer.

The all too often dissimilarity in their backgrounds, time horizons and the constituencies to which they are responsible carries the inevitable potential of differences in the attitudes and perception of the Secretary and the Minister. It is not as if financial profligacy is to be always associated with the Minister while such probity, virtue and wisdom exclusively reside in the Secretary and there can be an honest difference of opinion. But under the rules the Minister is not called before the PAC and it is the Secretary who has so to say to hold the baby. This places the Secretary in the unenviable position of having to explain or defend a course of action to which he may have been personally opposed.

In the United Kingdom, if the Minister is contemplating a course of action that the Permanent Secretary feels he may not be able to justify when called upon to defend it, the latter is required to set out his views

in writing and obtain the specific direction of the Minister to proceed. On receipt of such a specific direction from the Minister, the Permanent Secretary will apprise the CAG and also send copies of all documents to the CAG.

The CAG will normally bring such a case to the notice of the PAC which is expected to recognise that the Permanent Secretary bears no responsibility in the matter even as the Permanent Secretary nevertheless projects the views of the Minister before the PAC.

Currently, the Secretary may write to the Cabinet Secretary if he has a serious difference of opinion with his Minister and the latter may keep the Prime Minister informed. But this is only internal to the government. The matter may remain hostage to political considerations which have only assumed heightened importance in the era of coalitions, besides being hidden from the sunlight of public scrutiny till it is too late for corrective action. There is need for an institutionalised procedure whereby such cases get reported to an independent authority.

A desirable takeaway from the CAG's Audit Report may, therefore, be the introduction of a procedure similar to the one prescribed in the United Kingdom requiring the Secretary to promptly report to the CAG any order or decision of the Minister which involves significant violation of the applicable laws including subordinate legislation or procedures, or of the basic canons of financial propriety or which can result in poor value for money to which the Secretary is opposed. Failure to send a report to the CAG will invite the presumption of complicity of the Secretary in such orders and make him accountable for their consequences.

Besides promoting good governance and facilitating pinpointing of accountability, judiciously exercised this will at once provide a much-needed safety valve to the bureaucracy strengthening its backbone and also deny an alibi for an improper course of action on the plea of having acted under "orders from above". This will also facilitate early and



timely exposure of cases of irregular, improper or wasteful use of public resources for taking remedial action, for course correction and so to say for cutting the losses. n

The writer is a former Deputy Comptroller and Auditor-General of India

# **JUDICIARY**

## **Judiciary to the rescue**

Joginder Singh

**With the political class exposed as overwhelmingly corrupt and cynical, the judiciary alone can uphold the Constitution and protect the people.**

With the Supreme Court becoming proactive in monitoring cases of corruption against the high and mighty and ticking off the Government and the CBI for their indifferent attitude towards such cases, Prime Minister Manmohan Singh is predictably feeling ill at ease. Recently, he dropped his mask of reticence and fired a salvo against judicial activism by calling upon the judiciary not to exercise its power of judicial review to undermine the legitimate roles assigned to other branches of the executive and the legislature.

Speaking at the 17th Commonwealth Law Conference in Hyderabad, Mr Singh said, “Our judges, while interpreting laws, have also widened their scope and reach as lawgivers.... The judicial process has a dynamic role to play both as the guarantor of justice to litigants and as upholder of the constitutional conscience. But at the same time, it has to be ensured that the basic structure of our Constitution is not subordinated to political impulses of the moment or to the will of transient majorities.”

Underlining the need for the judiciary to adapt itself to a fast-changing world to retain its relevance, Mr Singh said the role of courts and judges in making law an instrument of social stability and progressive change cannot be over-emphasised.

Earlier, Chief Justice of India Justice SH Kapadia had appealed to Government to change its approach of 'equality' while implementing policies and rather focus on serving people on the basis of their needs. "If we take equality as a basis, our resources may not be sufficient ... Our limited resources should be spent in such a method that food, education and healthcare are made available, at least to those living below the poverty line, taking deprivation as a yardstick."

Mr Singh, perhaps as an afterthought, later acknowledged the efforts of the Supreme Court for delivering several landmark judgements in public interest litigation cases which are now part of the evolution of India's constitutional jurisprudence.

The truth is that the Government feels uncomfortable and embarrassed when its partisan decisions are challenged and nullified by the judiciary. Left to itself, the Government of the day would never have ordered an inquiry into the 2G Spectrum loot as it was afraid of losing power in the event of withdrawal of support by its coalition partner, the DMK. The former Minister for Telecommunication, A Raja, not only ignored the suggestions of Union Minister for Law M Veerappa Moily and then Minister for Finance P Chidambaram, but also defied the Prime Minister's instructions. His successor, Mr Kapil Sibal, has trashed the Comptroller and Auditor-General's report, suggesting that the loss to the exchequer was 'zero' and not a presumptive `1.76 lakh crore as indicated by the CAG report.

In this age of coalition politics, for any Government, irrespective of the party in power, survival has become more important than probity in public life. There are men of principles in all political parties but there is no party of principles. Today, the truth is determined by majority votes and not on the basis of facts.

The judiciary is an important pillar of any democracy. In India, it has performed creditably and stood the test of time in spite of what self-

serving politicians might say. But for judicial intervention, many wrongs would never have been set right.

Forget the 2G Spectrum loot, even the Commonwealth Games swindle or the Adarsh Cooperative Housing Society scam would not have seen the light of the day if not for intervention by the courts. So also the appointment of Mr PJ Thomas as the Central Vigilance Commissioner. He got the coveted job despite being charge-sheeted in the palmolein import scam while serving as Secretary in Kerala's Department of Food and Civil Supplies.

Interestingly, in the case of the appointment of a new chief of ONGC, Mr Thomas withheld vigilance clearance on the ground that three MPs had brought allegations against the candidate. However, the MPs who had reportedly written the letters later said those were forged letters. The appointment of the CMD still hangs in the balance while the appointment of the CVC has been quashed by the Supreme Court.

Rules are bent and violated blatantly to suit and please politicians. The Maharashtra Government was embarrassed when it came to light that politicians were trying to influence police officers to get their supporters, arrested for committing criminal offences, released from police custody. The Supreme Court issued strictures against the State Government, taking cognisance of a telephone conversation between then Chief Minister Vilasrao Deshmukh and a police officer.

Subsequently, Maharashtra's Home Department issued a circular, asking investigating officers not to mention in diary entries any telephonic conversation they may have had with politicians and legislators. The circular said that officers should be careful as diary entries are often submitted as affidavits in the courts and cause embarrassment to the Government.

What can be said with some surety is that crime cannot be hidden for

long. It is but natural that politicians will feel unhappy when pulled up by the judiciary. The judiciary's job however, is not to please politicians but to uphold the law of the land.

Despite rumblings in political parties, it should be remembered that the judiciary has by and large acted creditably. Its decisions are independent of political compulsions. India has adopted a universal democratic pattern under which it is perfectly within the domain of the judiciary to tell other branches of the state what they should be doing, where they have transgressed and what are their limits of power.

Instead of finding fault with the judiciary, the Prime Minister and his Government would do well to ensure speedy justice for the common man. The Supreme Court has recently observed that “no Government wants a strong judiciary... The system has already become sick. What can be the expectation of the common man for speedy justice? Even in the Supreme Court, a special leave petition takes eight years to reach the final hearing. We all give sermons. We go to the National Judicial Academy and give lectures to judicial officers asking them to speed up disposal of cases. But where is the infrastructure? They are already under heavy burden. There are only lectures, committees and commissions, but no solutions... Look at the budgetary allocation to judiciary. It is not even one per cent. That is the commitment to the judiciary”.

In the 10th Five-Year Plan (2002-07), the allocation for judiciary was ₹700 crore which was 0.07 per cent of the total Plan outlay. Most of the State Governments earmark less than one per cent of their Budget for the judiciary. In spite of that our judiciary has done what it is supposed to do — that is to uphold the Constitution and protect people from injustice.

In an ideal situation, the judiciary will refrain from intruding into the domain of the executive and the legislature and stick to applying and interpreting the law. But when there is cynicism about the seriousness

and impartiality of the Government in stemming corruption, maintaining checks and balances as has been mandated by the Constitution becomes imperative. Irrespective of what any politician may say or feel, the judiciary must continue doing its job without being swayed by either pressure or criticism.

# **POLITICS AND GOVERNMENT**



## **VOTE FOR ALL**

Jeeja Ghosh

Do people with disabilities have the right to exercise their franchise and contest as electoral candidates? This vital aspect has remained unexplored for decades as far as the rights of people with disabilities are concerned. In 2004, a public interest litigation was filed by the Disabled Rights Group regarding the absence of facilities for persons with disabilities to exercise their franchise. In response to the petition, the Supreme Court issued the following order (W.P. (C) No.1872004): construction of wooden ramps in absence of permanent ramps in polling stations for voters with mobility impairments; Braille stickers on electronic voting machines to enable voters with visual impairments to cast their vote independently; separate queues and special arrangements for persons with disabilities; the polling station personnel to be courteous and to render necessary assistance to enable persons with disabilities to exercise their franchise with least inconvenience.

Prior to the Lok Sabha elections of 2009, the Indian Institute of Cerebral Palsy along with some disabled rights organizations in Calcutta had placed a demand with the election commissioner for the implementation of the order passed by the Supreme Court. The appeal was heard by Ardhendu Sen, former home-secretary and the then joint chief election officer, N.K. Sahana, both of whom assured the group that most polling booths would be located on the ground floor and arrangements for temporary ramps would be made. It was also promised that EVMs would have Braille facilities.

Sadly, on the day of the election, many persons with disabilities, along with senior citizens, did not have a positive experience. Although the polling booths were on the ground floor, disabled people, especially

wheelchair-users, had to negotiate three or four steps before they could reach the polling booths. In places where the booths were not on the ground floor, they had to be carried up on stretchers. Hardly any of the EVM machines had Braille stickers on them. Some voters with disabilities were told that friends or relatives could cast their votes on their behalf.

### Wise steps

A team of disabled rights advocates from the IICP's advocacy group, Ankur, is already active in ensuring that the experience of 2009 is not repeated in the forthcoming assembly elections. The team met S.K. Gupta, the chief electoral officer, West Bengal, who agreed that facilities for persons with disabilities in the polling stations are still not up to the mark, especially in Calcutta. The situation is comparatively better in rural areas where the majority of the polling booths are housed in schools and have permanent ramps constructed under the Sarva Shiksha Abhiyan. Braille sticks are already being put on the EVM machines. The IICP team suggested that one polling booth in each area be made accessible to the disabled and senior citizens. It also suggested that for polling booths which are not on the ground floor, a separate arrangement be made on the ground floor for people with disabilities.

The right to vote is a fundamental right. Further, the United Nations Convention on the Rights of Persons with Disabilities 2007 ensures the participation of persons with disabilities in political and public life (Article 29). The UNCRPD mandates that people with disabilities have the right to participate in public life; vote by secret ballot directly or through a freely chosen representative; to be elected, hold office, and perform functions at all levels of government.

Being a signatory and having ratified the UNCRPD, India is both morally and legally obliged to adhere to the mandates of the UNCRPD. The Persons with Disabilities Act also stipulates non-discrimination in

the built environment (Article 46a). Hopefully, the disabled will be able to cast their votes without facing structural and attitudinal barriers.

# **SOCIAL JUSTICE**

## PIONEER 3.4.11 SOCIAL JUSTICE

### **Renaissance for OBCs**

Chandrabhan Prasad

As mentioned in the column last week, the world over, farming and cattle rearing social classes are last to reform and change. India's OBCs therefore, can't be an exception. And hence, we have to take a more sympathetic view on OBCs.

I had also mentioned that no external instrument can work on the OBCs and that's why there is a need to create rebels within the community. In other words, manufacture a renaissance for OBCs. And the prime instruments of this renaissance movement has to be Gen-X of the OBCs. They need to be taught the history of other countries.

Today, only 1.4 per cent British population is involved in agriculture. The East India Company was formed in the 16th century and quite like India, most of the English population was involved in agriculture and dairy farming. Britain being the motherland of industrial revolution and urbanisation, it followed that it was counted as the first developed nation. All countries labeled as underdeveloped, and developing are following the model that was set up by them.

If India has to catch up with the rest of the world and turn into a developed nation in this century, we, too, will have to industrialise and urbanise. Agriculture, too, will turn into industry and fewer people will live on agriculture. Machines will be involved in production of foodgrain, vegetables, fruits, dairy and meat. If OBCs don't plan to claim the opportunities coming their way in the next few decades, their

future will turn into a challenge and failing to tackle it will become a threat for the democracy and peace of the country. Demonstrations, like the Jat agitation are an example of what is to follow.

To ensure India's peaceful transition into an industrial/urban and caste neutral society, it is necessary to assemble a renaissance for OBCs. As mentioned above this has to come from within the community where the youth can think like Dalits, behave like them, and even dress like them.

Central to this change has to be the disdain the OBC youth will have for farming, cattle rearing and village life. They need to be trained into seeing India as their final destination. Instead they are seeing a much smaller picture that is limited to where they live. But how does one prepare this class of OBCs for the future? Not very difficult if:

nThe Union Government run Navodaya Vidyalayas is one of the finest institution post-colonial India has conceived. Under this chain of schools children are selected on a written test and admitted to Class VI. They continue to study here till they reach Class XII. Teachers and students live within the same complex. Everything, from food to toothpaste, is provided free of cost. Many students who have passed out from Navodayas get selected to premier engineering and medical colleges. Unfortunately, there are very few such schools in the country.

The Government can make several dozen such schools in every district and ensure that children who belong to OBC families are sent in such schools. If the question is about how to fund the construction of such schools across the country, the solution is simple. Scrap the mid-day meal which is like a Hiroshima tragedy unleashed on the country's under-privileged class. From the money saved, the Government can open hundred thousand Navodaya schools every year. The OBC parents need to be bribed so that they will send their children to these schools.

But it will not be an easy task. Bribing them is tough. After all, they

have enough money. What they need is licenses for guns, jobs in the police force and subsidies on everything — electricity, tractors, seeds, fertilizers and pesticides. These should be granted. After all it is in the interest of the country — democracy and industrialisation of the nation. However, this must come with a condition — the families must send their children to Navodaya Vidyalayas.

Alternatively, there are many schools in the country that run of the same lines as Navodayas and the Government can ensure that children from OBC families study here. The Government can also have a tie-up with private sectors and promote more such schools that will provide education to this section of the society.

In learning centres like IITs, IIMs, JNU and Delhi University the OBC talent should be incorporated in the form of students, faculty members, clerks, drivers, gardeners but, with a condition — that those employed must reside with family within the campuses.

The OBC students should be encouraged to form associations, then choose a few from among them and send them on a trip to a foreign country so that they are exposed to a different environment.

The OBC families should be given money because they have opted to teach their children English.

Provide the families with free cable connection or Direct to Home so that they may watch channels like MTV, Travel and Living, NDTV Good Times and Discovery. All this to engineer a change in their lifestyle.

If the country doesn't streamline the OBCs, India's future looks very bleak.