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# **BOOK REVIEW**

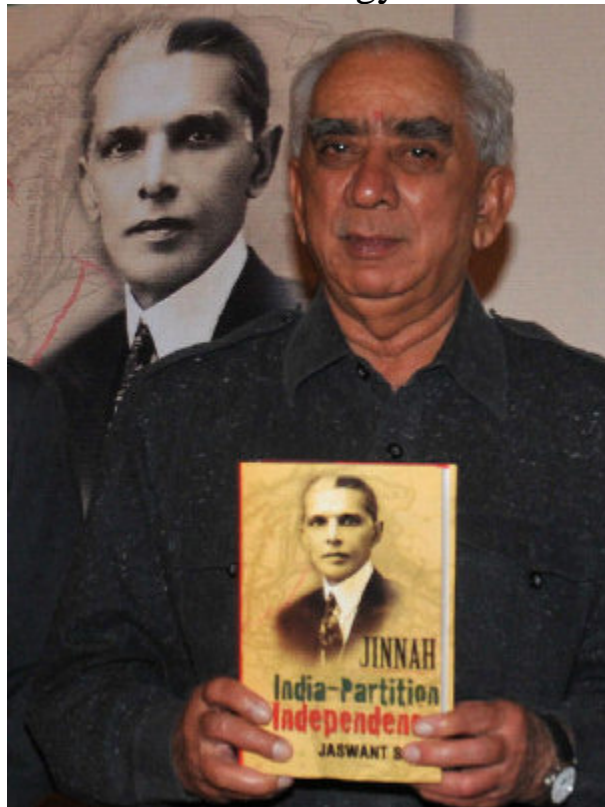
## HINDU 21.1.10 BOOK REVIEW

### Of Jinnah, BJP and “turban diplomacy”

Hasan Suroor

*For Jaswant Singh, the success of his latest book is hardly a compensation for the loss of a successful political career.*

— Photo: K. Bhagya Prakash



**“All political parties have a penumbra and if they lose that they lose their justification.”**

“With friends like these, who needs enemies?”

That appeared to be the message Jaswant Singh wanted to give to the BJP when, last week, he spoke at some length about the runaway

success of his book on Jinnah (*Jinnah: India-Partition-Independence*) which caused his expulsion from the party five months ago.

In retrospect, the BJP might be regretting kicking up a needless controversy over a book (a rambling 600-page tome with no significant new insight to offer) that may have struggled to sell had it been simply ignored. Instead, as a beaming Mr. Jaswant Singh pointed out, the book is already into its 23rd reprint and an international edition from Oxford University Press will be launched in London in March.

“I am told that Karachi was flush with pirated copies,” he gushed, speaking to a group of British Asian MPs and South Asian journalists.

The book’s success, though, is hardly a compensation for the loss of a successful political career, not to mention the public humiliation of being expelled from a party that had been home to him for more than 40 years. And that is what makes him angry.

“They [the BJP leadership] knew that I was writing about Jinnah. It was no secret,” he said, clearly sounding hurt that even close colleagues whom he had expected to stand up for him left him hanging out to dry.

Mr. Jaswant Singh pointedly recalled how he “fought” for L.K. Advani when he got into trouble with the party over his own remarks about Jinnah. “I fought for Advaniji. I told them I would resign if action was taken against him,” he said.

While the former Foreign Minister is still struggling to come to terms with the way he was treated, he believes that the BJP acted the way it did because it would lose its ideological *raison d’etre* if it were to stop “demonising” Jinnah.

“All political parties have a penumbra and if they lose that they lose their justification,” he said adding that in the case of the BJP that “penumbra” is Jinnah.

Calling for an end to Jinnah-bashing, he said that Indians who treated Pakistan's founder as a "demon" were as wrong as the Pakistanis who demonised Gandhi. Jinnah was a "very straight" and "determined" man and had he lived to realise his vision of Pakistan it would have been a very different country today.

"I have no doubt about that...Jinnah died before he was able to realise his vision," he told a Pakistani reporter.

It was interesting to see how Pakistani journalists suddenly warmed up to Mr. Jaswant Singh when he praised Jinnah but sat back in sullen silence when he criticised Pakistan for its shock invasion of Kargil so soon after Atal Behari Vajpayee's historic bus ride to Lahore.

I remember being at the Wagah border on that balmy February afternoon in 1999 when *Sada-e-Sarhad* (as the bus was named) crossed into Pakistan amid a wave of euphoria on both sides of the border. Few would have imagined at the time that barely months later the two countries would be at war with each other.

Mr. Jaswant Singh shakes his head in disbelief at the turn of events. The Pakistani action caused him deep personal hurt because, he claims, the bus ride was his idea.

"Prime ministers don't ordinarily travel by bus. I suggested to Prime Minister Vajpayee — and it was in New York that this suggestion was made — that 'why not travel to Lahore by bus'," he claimed.

Mr. Vajpayee was so taken up by the idea that he declared: "*Yeh lohe ya ispaat ki bus nahin hai, yeh jazbaat ki bus hai.*" (This is not just a bus made of iron or steel; it is a bus of emotions)

Back in Pakistan though, planning for the Kargil adventure had already begun. Whether Nawaz Sharif, who co-hosted the Lahore summit as Prime Minister of Pakistan, knew about it is not clear (Pervez Musharraf

insists that he did; he denies it) but Mr. Jaswant Singh has rather fond memories of his meeting with “Mian sahib”.

That Mr. Sharif has a taste in sharp suits and designer salwar- kameezes is well-known, but it seems he cannot resist a good Rajasthani “pagri” (turban) when he sees one, as Mr Jaswant Singh discovered.

“I wore a turban to visit a gurdwara in Lahore. He said: ‘I like your pagri very much’. So, I told him: ‘now that you have said this I must gift it to you’ ...I then sent him 11 turbans,” Mr. Jaswant Singh recalled counting his fingers, though he did not quite explain the significance of 11. Why not 10? Or 12?

But then Kargil happened, putting an end to his quiet “turban diplomacy”. Indeed, one wonders if Mr. Sharif ever got to wear any of the turbans before he was sent packing by General Musharraf after staging a coup later that year.

So, what next for Mr. Jaswant Singh? Did he plan to form a political party?

“No, no, there are enough political parties,” he protested saying that he wanted to work for peace in South Asia which was going through its “most perilous” phase in 62 years.

“I want to work for peace in Pakistan, Nepal, Sri Lanka and Bangladesh — and I want to expand the constituency of peace in our land,” he declared.

Unless, of course, he is rehabilitated by the new BJP management. Never rule out anything in politics!

# **INTERNATIONAL RELATION**

**Between the lines: In search of peace**

By Kuldip Nayar

*It would be better if India and Bangladesh were to integrate their efforts with the ones initiated by Pakistan and Afghanistan.*

It was a welcome coincidence that both Bangladesh and Pakistan figured in the discussions in New Delhi this week. Prime Minister Sheikh Hasina was on her first official visit after a landslide victory last year. Top Pakistan lawyers, academicians and human rights activists sat in the capital with their counterparts to find a road to peace after the governments in Delhi and Islamabad had failed to resolve their problems in the last 60 years.

One thing common between the two meetings, held at separate places and at different levels, was the search for peace. Both have succeeded in the sense that they have taken certain decisions which, if implemented, will yield untold benefits. The difference — a big one — was while the governments of Bangladesh and India signed several agreements to restart on a path to peace and friendship after a dreary journey, India and Pakistan have gone still further apart.

The Manmohan Singh government was at pains to accommodate Sheikh Hasina to register that India had opened all its doors to cultivate at least one of its estranged neighbours. On the other hand, New Delhi hardly took notice of the three-day Indo-Pak meeting right under its nose.

Sheikh Hasina's visit, which took place after one year of her rule, has



come at a time when she has assessed her country's needs and India's capacity to meet them. She did not demand anything but it was apparent that if her government could not lift her people economically, she would slide further on the popularity graph, already down from 83 to 67 per cent as a recent survey of a Bengali daily published from Dhaka shows.

Sheikh Hasina's biggest contribution to Bangladesh is the strength she has given to democratic and secular forces: the plank on which she fought election and won three-fourths seats in Jayti Sangad (parliament). India too has, in turn, gained. Lessening of fundamentalism in a neighbouring country helps.

In fact, during the talks between Manmohan Singh and Sheikh Hasina, when the latter took a principled stand and assured him that no terrorists would be allowed to function from her country, the entire scenario changed. She had a long list of demands. But even before she could read the first line, Manmohan Singh reportedly said that she did not have to ask for anything. Whatever is the need of Bangladesh, India will go to the farthest extent to meet it.

The proposed \$600 million credit to Dhaka was doubled. India gave an undertaking that it would not take any step on the Tipaimukh hydro electric project without the consent of Bangladesh where it had become a controversial issue. Nor did New Delhi ask for any transit facility which again was a sensitive issue with Dhaka.

## **Willingness**

The resolve to eliminate terrorism is what the region wants, from Kabul to Dhaka. Islamabad would like New Delhi to join the operation but India is in no mood to listen to Pakistan's argument for the resumption of a composite dialogue. The 26/11 carnage, even though 13 months old, is still fresh in the minds of people.

The Indo-Pak meet has also appreciated the point and has suggested a bilateral and regional approach to combat the menace. It would be better if India and Bangladesh were to integrate their efforts with the ones initiated by Pakistan Prime Minister Yousuf Reza Gilani and Afghanistan President Karzai.

The Pakistani speakers were frank enough to admit the havoc the terrorists were creating in their country. One of them said that no one leaving the house was sure whether he would return alive. Islamabad needs to be retrieved. It does not mean that India will be less anxious in having Pakistan pursue its effort to book the perpetrators of 26/11.

It is strange that Islamabad has not yet understood how the system works in Delhi. Otherwise, Pakistan would not have overreacted to the statement by chief of the army staff Gen Deepak Kapoor that India may have to prepare for war against China and Pakistan. However irresponsible the statement, it does not pose any threat to Pakistan. Defence Minister A K Anthony scoffed at Islamabad's reaction.

Gen Kapoor is not Gen Pervez Kayani. The systems in the two countries are different. Gen Kapoor or the Army has no say in India's political affairs. He is due to retire after serving his tenure. The government will soon be naming his successor.

Making a mountain out of a molehill gives the impression as if Pakistan is trying to score a point, however weak and farfetched. What all this boils down to is the unending mistrust. Until it is replaced by confidence, the two sides have to see that they do not present an exaggerated picture, indulge in accusations or imagine something which has no basis.

Sheikh Hasina's visit and the Indo-Pak meet should make people in South Asia think of the miracle that can take place if all the countries were to pool their resources. They do not have to give up their separate identity or sovereignty. They have to only shed distrust and suspicion to

build the region for the common good.

**LAW**

## **HINDU 19.1.10 LAW**

### **Commerce and the Constitution**

V.R. Krishna Iyer

*The logic behind the Bill to set up Commercial Divisions in the High Courts to deliver fast-track justice solely for the rich litigant, is perverse.*

The triple Montesquieuan instrumentalities of state power have been created by the Constitution and they should necessarily function under it. Any legislation that creates a contradiction should stand invalidated.

The provisions in the Commercial Division of High Courts Bill, 2009 that seek to give special and fast-track treatment to a certain class of cases has first to be examined to see whether it violates the fundamental principle of *suprema lex*. The Bill has as its foundation a special provision to establish commercial divisions in courts with the objective of achieving quicker disposal by expert tribunals of commercial disputes that involve a sum of Rs.5 crore or more. The idea is to facilitate their early disposal so that the rich who are involved in such disputes do not have to wait for too long for a final adjudication.

The Bill is based on this principle of facilitation in favour of the richer among litigants who through a special body of the High Court and other relative clauses can get their disputes adjudicated and quickly disposed of. The number of appeals will be reduced to one, in the Supreme Court.

Meanwhile, the poor person whose litigation mostly involves a value that is below Rs.5 crore has to wait for the outcome at the Munsiff's Court, the District Court, the High Court, the Letters Patent Appeal and the Supreme Court. In India these proceedings, tier upon tier, take decades before a final judgment comes. Often it takes more than a generation.

It is obvious that there is discrimination writ large here between two classes of litigants. This will also reduce the number of judges available to hear ordinary items of litigation, commercial, labour and land disputes that involve a jurisdictional value that is less than Rs. 5 crore. This will necessarily mean a longer time-span for the conduct of proceedings and final disposal by fewer judges who will be left to handle them. Obviously the rich are favoured by helping them achieve early finality. Meanwhile the poor and the middle classes have to hang on often for a life-time for an outcome. Trade union litigation where workers are involved, peasant-widows seeking maintenance, common land disputes and so on will be discriminated against and suffer inordinate delays.

Equality is a fundamental right under Article 14. Social justice really means that justice, justices and justicing have an equal obligation to render early justice. To divide social justice into two categories, the rich being given special facilities for early justice and the not-so-rich being forced to wait, is violative of Article 14. It also constitutes breach of social and economic clauses.

Justice-delivery should involve an integrated system; it cannot be dichotomised. A division that is based largely on the monetary dimension of litigation is obnoxious, all the more so because this is a socialist-democratic Republic. To provide special facilities for the rich and to pejoratively assign the weaker sections in another category constitutes an irrational differentiation. Democracy is fundamentally equality of the judicial process. To make the monetary value of a

commercial dispute the basis of classification is undemocratic.

The different chapters of the Bill merely seek to implement this discriminatory classification. There is no reason why workers and peasants, women and children, with their claims for maintenance and right to life, should not be given similar justice in the forensic process. The truth is evident. The richer the litigant, the earlier the law secures justice. All the rest, namely the weak, the downtrodden and the penurious, should undergo considerable delay in getting ultimate justice from the courts.

Such a distinction will be arbitrary and bad in law. The Bill is vitiated by this pro-plutocratic clause. The dichotomy is irrational and invalid. The only justification given is that the richer investor must be given fairer treatment. Will the rest have to be content, then, with protracted adjudication?

Socialism, democracy, equality and economic justice with a sense of speed and early finality are requirements that are being denied to the majority of litigants. This fundamental flaw against the little Indian is too obvious. The law grinds the poor and the rich govern the law. The richer classes cannot rob the court's time for their benefit, leaving the poor with their little money wasted across more tribunals before they can ever hope to see the end of the case.

Indian socialism and democracy are the victims of feudalism, capitalism and corporate control, even as the courts enjoy longevity without accountability. The objects and reasons of the Bill explain the untenable reason for a separate class of tribunals, or Divisions, of the High Court. The original jurisdiction itself is given to the Commercial Division of the High Court designed to reduce the length of the litigation. Judgments have to be delivered within a month of the conclusion of arguments.

All the reasons given for the creation of such a special facility apply

with equal force to other types of litigation. Why should only big commercial firms or corporations enjoy the luxury of early disposal? This discrimination argues its own unconstitutionality. The Minister for Law and Justice is quite competent to see the flaw, but the bureaucracy often covers up this weakness.

Of course, equality under Article 14 is not totally allergic to classification of cases, provided there is a clear differentiation between the classes and provided such differentiation has a rational relation to the object of the legislation which sanctions a classification.

What is the object of the legislation here? Early disposal, swift dispatch and quick disposal at less cost of litigation in cases that involve a value of Rs.5 crore and above. The objectives do not make any differentiation except that the rich man must have his cases decided with early finality while the poorer man may have his cases pending till he perishes. This differentiation is irrational and outrageous in a socialist-democratic state. This is a classic instance of irrational egalite under Article 14.

The legislation classifies litigation into two categories. The poor litigant will wait for the somnolescent process and leisurely pronouncement and the wealthy litigant will have his case speedily terminated. If this be the differentiation, it is horrendous and outrageous in a socialist democracy.

Perhaps William Goldsmith was right when he said: "Laws grind the poor, and rich men rule the law."

## **Bail, not jail**

**Soli J. Sorabjee**

In our criminal jurisprudence bail, not jail, is the general rule subject to recognised exceptions. The rationale is that a person who is arrested is not pronounced guilty. He is presumed to be innocent and that presumption endures till his conviction. Presumption of innocence is not a fanciful technicality but a cardinal principle underlying all civilised legal systems. It is recognised in Article 11 of the Universal Declaration of Human Rights (1948). Therefore a person whose personal liberty is curtailed by arrest is entitled to bail. Legal provisions which altogether deny bail or provide that bail should not be granted for a long period raise constitutional problems. It is not realised that when a person is granted bail he has not got scot free nor has he been acquitted. Far from it. When granting or refusing bail the court does not determine the innocence or guilt of that person.

In a case sensationalised by media hype when bail is granted by court there is public outcry. It is overlooked that the approach of the court in matter of bail is not that the accused should be detained by way of punishment before trial. The court has to ensure the presence of the accused during trial and that the accused does not tamper with documents or pressurise potential witnesses or otherwise interfere with the ongoing investigations. To that end courts impose strict conditions when granting bail which if breached will lead the accused back in jail. Ugly facts of a case should not detract from the basic principles regarding grant of bail.



## **Lawyers and not actors**

Counsel for former Haryana DGP S.P.S. Rathore and for Ruchika Girhotra's father will forcefully present their respective cases and disentangle the web of lies and deceit in court as they are entitled to. However, their frequent appearances before the electronic media, justifying their clients' respective stand is improper. Lawyers appearing in a pending case must not participate in discussion about the merits of the case and thereby encourage trial by media. Lawyers should not behave like actors. Apparently the lure of the mike and the attendant publicity is difficult to resist. The Bar Council of India should seriously look into this regrettable phenomenon.

## **Much ado about B-word**

In our college days we often called an objectionable person a bloody bastard. It was not meant to cast doubts about the person's paternity but was an expression of disgust, revulsion. Nobody went into a tizzy and life went on smoothly. When former Prime Minister HD Deve Gowda recently hurled that expression at the Chief Minister of Karnataka BS Yeddyurappa, he perhaps went down memory lane to his school/college days and was so carried away that whilst he was entitled to mutter the B-word under his breath; he did it full blast in public. That was certainly improper. But when Deve Gowda realised his mistake and expressed regret in public the matter should have ended. However, for our politicians this was spicy stuff, too juicy to be ignored. Deve Gowda's conduct was severely condemned and there were threats about instituting legal proceedings against him probably for libel. In a democratic country where political diatribe is common I doubt if B-word is per se actionable libel. Besides it would be unwise to add to the crushing burden of arrears by one more suit which would probably be decided after a decade. By that time Deve Gowda and Yeddyurappa would at best become footnotes in political history and people will have forgotten the incident.

The problem is that Deve Gowda soon forgets his public expression of regret and valiantly attempts to justify the B-word. Worse, he abuses the Advocate General of Karnataka who is representing the State in the Supreme Court and does not have nice words for counsel appearing for NICE. Well, well, well, we can surely make allowance for the aberrations of an old man who happened to become the Prime Minister of our country, remembering that old men forget. Now for Heaven's sake let us draw a curtain on these political theatricals.

# **POLITICS AND GOVERNMENT**

## **Bihar's Big-thinking Babu**

**Ila Patnaik**

For most of his life, N.K. Singh was a very successful bureaucrat. Today, he is a member of the Rajya Sabha and continues to participate in the policy-making process. In addition, he advises Nitish Kumar on India's hardest problems in one of the most difficult states to govern, Bihar. Along the way, he also writes thoughtful columns. Given his unique background, knowledge and perspective, it is always interesting, and important, to reflect on what he says.

A set of his columns in The Indian Express has been assembled into a book, *Not by Reason Alone: The Politics of Change*. For readers of the newspaper column, a big value added to the book format is that columns are grouped together by subject. Reading a group of chapters on one broad area gives a better picture than reading them as they have appeared in the newspaper over time, particularly given the competition for focus that characterises the newspaper format. The themes under which the columns have been grouped are: "Globalising India", "Sustainable development", "Inclusion", "Inclusionary fiscal policy", "Infrastructure", "Education", "Institutions", "Political dynamics" and "Elections 2009".

Looking beyond this structure, I found the columns directly linked to Bihar to be consistently outstanding and particularly interesting. They reflect a lifetime of knowledge of Bihar coupled with the urgent sense of rolling up one's sleeves and starting to solve problems. The author and

most readers are aware of a host of solutions that Bihar needs at the broad level: better law and order, better transportation links to the rest of the country, and better education. But as the title emphasises, the challenge lies in navigating hard-headed ideas through to execution in the context of the inevitable pulls and pressures of India's representative democracy. The author does well in taking the reader beyond the platitudes, to a deeper understanding of what holds Bihar back and the work that is under way in breaking these barriers.

I found the last three sections to be the most interesting. India has inherited a certain institutional machinery by virtue of the colonial heritage, the drafting of the Constitution and a glacial process of incremental change. The suitability of the colonial heritage (eg. the RBI Act of 1934) in 1947 was questionable, and in 2010 the gap between India and the structure of laws and agencies is acute. Every organisation requires fundamental organisational modifications to cope with a doubling in activities. In India, with 7 per cent growth, we have been getting one doubling every decade. Hence, there is a large gulf between the needs of the economy and the existing institutional structure.

The task for policymakers consists of simultaneously getting the creaky institutional structure to turn out superior outcomes, and putting top management time and political capital into institutional reform. These twin themes, and the balance between expediency and deeper reform, repeatedly surface in this group of columns. The message that comes through for every leader of a government agency or every minister is to continually seek far-reaching structural change in information, incentives and legal foundations: to catch up with the India of 2010 and to support India's growth from 2010 to 2020.

The heart of institutional change is law-making, and myriad columns return to the law-making agenda. Ultimately, reform is only achieved by drafting high-quality legislation and taking this through Parliament. The author rightly points out the weaknesses of Parliament in recent years, in

failing to enact important legislations and in failing to even spend enough time on debating and crafting legislation. A particularly strong piece is “The Problem with Parliament”, which summarises what is wrong with the present mechanism through which legislation is handled in Parliament, and proposes specific solutions.

Some of the columns might appear dated at first blush. For example, “A CMP between Congress and BJP” was timely and topical in October 2007, when it was written. Today, the BJP appears to have self-destructed, and the importance of such an alliance appears diminished. Diminished, but not extinct. In coming years, this issue is likely to surface. India needs a centre party that is able to be aloof from the twin afflictions of religion and socialism. The raw material for this lies in combining the less-religious elements of the BJP with the less-socialist elements of the Congress. With religious sentiment and socialist fervour both ebbing in the younger generation, such a development cannot be ruled out. The column could prove to be dated, or it could prove to be prescient.

INDIAN EXPRESS 17.1.10 POLITICS AND GOVERNMENT

## **Do we deserve better politicians?**

Tavleen Singh

Having spent my formative years in olden socialist times I pay close attention to political witch-hunts. They were the norm in the days when the Soviet Union ruled our hearts and minds and our Prime Minister routinely blamed the CIA for everything, from failed assassinations to failed monsoons. Far from questioning this hysteria, we of the Fourth Estate, joined in it passionately. We were all socialists then. Your columnist was no exception. I was not among those who were paid by Moscow. But, as former KGB spymaster, Vasili Nikitch Mitrokhin, later revealed there were many important journalists in Delhi who were paid by the Soviets to take the party line on major issues of politics, economics and foreign policy. Read *The Mitrokhin Archives II: the KGB in the World* to discover how many people in Delhi were on Moscow's payroll. Politicians, bureaucrats and journalists.

In the newspaper offices in which I worked in those socialist times I met almost nobody who was not of Leftist persuasion. Arun Shourie was the first and I only met him in the late eighties. Times were beginning to change by then but not enough for him to escape being labelled a 'fascist'. This atmosphere of thought control led us en masse to support a particular kind of politician. The rural kind. We loved Mulayam, Lalu

and Mayawati because of their uncouth manners and their rusticity. It was only when Lalu Yadav handed Bihar over to his semi-literate wife after being charged with making money on fodder meant for Bihari cows that we began to see the light. But, in recent days the witch-hunt against Shashi Tharoor is beginning to make me believe that when it comes to the kind of politicians we support, not much has changed.

Tharoor is intelligent, sophisticated, educated and aware of the big international issues of the day. He did not slip into politics through the Rajya Sabha's backdoor but stood for election from Thiruvananthapuram and won handsomely. The Prime Minister did well by making him a junior minister in the Ministry of External Affairs. As someone who spent twenty years working for the United Nations he is more than qualified for the job. But, ever since he got it he has faced hostility from his colleagues in the Congress Party and a witch-hunt from the media. Barack Obama and many other world leaders use Twitter but when Tharoor uses it he is vilified as the Minister of Twitter. Every hack in Delhi uses a Blackberry or its lesser cousin but Tharoor gets flak even for this. As a Minister of External Affairs he should be analysing Indian foreign policy but this is interpreted by most of the media as criticism of Jawaharlal Nehru. So far the only charge against Tharoor that is worrying is that he is using Indian embassies to buy his books and promote them abroad.

Even if he is and even if he charged the Ministry for his ill-advised sojourn in the Taj Mahal hotel, it is small stuff compared to what is going on in some other ministries. The Congress Party's coalition partners openly bargain for certain ministries and threaten to leave if they do not get them. Ask yourself why.

If you have ever seen Indian politicians speak at international forums you would agree that 99 per cent of them come across as Third World clowns. There is the rustic lot who speak no known language well, not even their own, and then there are the princelings who are in politics



only because they had a Daddy, Mummy or Sugar Daddy in the right place. They are all educated, and luckily have learned how to speak at least English coherently, but ask them to speak about any major issue from climate change to the fight against poverty and all you get is jargon. They know all the buzzwords and that is about it. They are nearly all in politics only because next to stardom in Bollywood it is the quickest way to fame and fortune.

If politics and governance is to improve in India we need a better kind of politician. We need many more educated, intelligent Indians to come into politics with the idea of serving India's interests and not their own. Princelings and peasants have ruined us. In recent years that is all we have been bequeathed, not because that is what the people want but because the people have been given almost no choice. Tharoor may have his flaws but we need many, many more like him if we are to achieve the dream of transforming India into a developed country by the middle of the 21st century. If the media wants to have some fun taking potshots at politicians there is a circus of inept princelings and peasants to choose from.

## ASIAN AGE 17.1.10 POLITICS AND GOVERNMENT

### **A for accountability**

Arun Nehru

The Australian government blames the media for a hysterical response to the violence in Australia directed at Indians; India's minister of state for external affairs Shashi Tharoor blames the media for dishonest reporting; and former director general of police S.P.S. Rathore complains of a media trial in a nearly two-decade-old case of molestation and suicide of a minor. The media, like every other institution, has good, bad and ugly components. There are vested interests based on commercial consideration and on occasions political tilts do exist. But if we assess the situation in totality then we will observe that in the past decade the media, armed with the "technology" available, has done more than any political party or official agency in protecting democratic values and initiating much-needed reforms. We sometimes take things for granted but look at the Jessica Lall, Nitesh Katara, Priyadarshini Mattoo, Ruchika Girhotra cases and look at the struggle of a few determined family members and friends against the might of the system — did they have even a small chance of getting justice? The media created a "miracle" of sorts and no government (political leaders, judiciary or officials) can ignore the power of public opinion which is motivated by exposés in electronic and print media. We have seen the effect of media exposés in criminal cases and hopefully thousands will benefit from these. The situation in Australia is for all to

see and even as I write this article I receive a call indicating that a fresh incident has taken place in Sydney and in a few minutes I see on my TV set photographs of the victim in a Sydney hospital. All this within a few hours of the incident that took place in Australia. The war of words continues and after 400-plus incidents and casualties, the Australian government cannot remain in denial mode. The juvenile comments by Australian ministers and security officials will have no credibility as media exposés will speak louder than official statements made by both, India and Australia. OUR JUDICIAL system is also moving in the right direction and the “accountability” factor cannot be ignored. The Delhi high court has declared that the Chief Justice of India and the judiciary are accountable to the common man. An opinion poll of the voting public would make it evident that despite resistance from the government this is a situation that cannot be ignored. The disclosure of assets by Supreme Court judges and their scrutiny has only enhanced the image and credibility of the apex court. Greater transparency is bound to increase our confidence in the legal system that currently carries a backlog of 30 million cases. The Right to Information (RTI) is gaining momentum and will expose the “system”. The RTI is a warning to all concerned that a public office has public accountability and that the print and electronic media are present to ensure that the public is included in the decision-making process. In a democracy, no one can ignore public opinion. The disproportionate assets case involving Chief Justice P.D. Dinakaran of the Karnataka high court was first exposed by agitating lawyers in Karnataka and then fully supported at the national level by senior lawyers. Further, land documents and other details disclosed in the print and electronic media sealed the issue and reinforced the need for greater transparency in our judicial system. POLITICAL DRAMA continues in Uttar Pradesh as the Samajwadi Party (SP), after its recent reverses, indulges in the “blame game”. This will only wound the party further and strengthen voters’ resolve to settle issues between the Bahujan Samaj Party (BSP) and the Congress, with the Samajwadi Party (SP) a distant third. The choice of words of SP leaders is unfortunate and the utterances of former Prime Minister H.D. Deve Gowda do little

credit to anyone in particular. As things stand, the SP leaders on both sides have few options. The political space for SP “rebels” in either the BSP or the Congress will be very limited and last-minute migrations for tickets has a negative factor for the party. The political space created for the Bharatiya Janata Party (BJP) and the SP no longer exists and I don’t think that the majority or the minority communities are going to get motivated by communal issues. The Congress will give a stiff fight to the BSP and Rahul Gandhi and the Congress will have a great opportunity to test the talent unearthed by their membership drive. No seat in politics should be considered strong or weak in a volatile political atmosphere. The BSP has not suffered and Mayawati will get a great deal of sympathy for all the action initiated against her by the income-tax department. Similarly, the cases in the Supreme Court will also help her garner votes. We have seen in the past that political battles are best settled in the political arena. The Congress is proceeding in a systematic manner in Bihar and clearly the alliance between the Rashtriya Janata Dal and the Lok Janashakti Party — both parties struggle against the Janata Dal-United (JD-U) and the charismatic Nitish Kumar — is over. The Congress will do everything possible to give a straight fight to the JD(U)-BJP combine in Bihar. The odds will be in favor of the BSP in Uttar Pradesh and the JD(U)-BJP in Bihar, with the Congress in hot pursuit. Things could be very different in 2014. Change is inevitable and as political and economic power shifts between the West and the East there will be many elements in the Western world who will find this development disturbing and will stress on the negatives in India, past and present. The colonial “virus” affects many in our midst but they are in a clear minority and suffer from an inferiority complex. We, over the past decade, have created a “miracle” in many fields but we will do well to remember that the first three decades after Independence involved a great deal of sacrifice and self-restraint and provided the “tools” for the future. We cannot deal with the future if we do not respect the past and as we proceed towards our objectives it is essential to concentrate on the positives and not divert our energy towards those who indulge in negatives. Arun Nehru is a former Union minister

# **SOCIAL JUSTICE**

## **HINDU 21.1.10 SOCIAL JUSTICE**

### **Our crimes against our children**

Praveen Swami

*By the grim standards of the dystopia India's children inhabit, S.P.S. Rathore's crime was utterly ordinary.*

In December last, Indians watched in outrage as S.P.S. Rathore, former Haryana Director-General of Police, smirked at the end of court proceedings which saw him receive a six-month prison sentence for sexually abusing a teenager 19 years ago.

Not far from the Chandigarh courtroom where Rathore was convicted, a panchayat in Rohtak gathered to discuss the fate of a seven-year-old girl who had been sexually abused by a retired schoolteacher. The panchayat ordered that the hair of the perpetrator, Sushil Kumar, be shaved off — but asked the victim's family not to inform the police. It was only three weeks later, after Kumar's sons threatened the family, that the matter was reported to the police. The child's story was buried in inside pages of local newspapers; the police say evidentiary issues render it unlikely the perpetrator will ever be punished.

Kumar is not the only paedophile who has not received national attention. Few know the story of a two-year-old raped by a construction contractor in Bangalore, a 10-year-old girl from Valsad

raped by her uncle or the Latur teenager raped by three young men in her village and hanged from a jamun tree. Part of the reason Rathore's appalling crime drew attention was that it fitted neatly with tropes of villainy familiar from pop-culture: among them, uniformed criminals immune from the law and powerful politicians who guarantee them impunity.

But the truth India has shied away from these past weeks is this: Rathore's crime was, by the standards of our society, utterly ordinary. For the most part, India's children live in a nightmare; a dystopia founded on our collective complicity and silence. By the Government of India's account, more than two-thirds of Indian children experience beatings in their homes, schools, workplace and government institutions — beatings which, if conducted in prison cells, would count as torture. Every second child in India, the government says, also faces one or more forms of sexual abuse.

Yet, no government has found the time or energy to enact a law against the abuse of children — leaving the authorities, when they can bestir themselves to deliver justice, to respond using legalisation intended to prevent prostitution, beggary, trafficking and rape. There is no institutional machinery to investigate schools, homes and children's workplace for sexual and physical abuse. There are no police officers trained in the special skills needed to deal with child abuse. Barring a handful of organisations and individuals working to address the needs of abused children, there is no resource which victims and their families can turn to for help.

### Terrifying facts

In 2007, the Union Ministry of Women and Child Development released the thoughtful —and terrifying — *Study on Child Abuse in India*. More than 12,000 children were polled to arrive at an empirical picture of the scale of beatings and sexual crimes that

Indian children endure. Fifty-three per cent of the children said they had encountered “one or more forms of sexual abuse;” 68.99 per cent said they had suffered physical abuse, including beatings. More than a fifth reported severe sexual abuse, including assault, having been compelled to fondle adults’ private parts, exhibit themselves or be photographed nude. Well over half of those reporting severe sexual abuse were boys, the study found.

Popular wisdom holds that sexual abuse takes place when children are in environments outside the supposedly safe confines of their homes and schools. That, the study found, was simply not true. Fifty-three per cent of children not going to school said they had been sexually abused in their family environment. Just under half said they had encountered sexual abuse at their schools. These figures, interestingly, were about the same as children in institutional care who said they had been sexually abused — 47.08 per cent. Most vulnerable were children in workplaces, 61.31 per cent of whom had been sexually abused.

Boys in all but four of 13 States — Gujarat, Madhya Pradesh, Maharashtra and Goa — were found to be more at risk of sexual abuse than girls. In Delhi, a staggering 65.6 per cent of the boys reported that they had been sexually abused.

Most at risk of serious sexual abuse, the study found, were children between 11 and 18 — although the group between six and 10 also reported significant levels of assault. Analysed by age group, the study states, sexual abuse was reported by “63.64 per cent child respondents in the age group of 15-18 years, 52.43 per cent in the age group of 13-14 years and 42.06 per cent in the age group of 5-12 years.” Assam, Delhi and Andhra Pradesh were found to have the highest levels of sexual abuse, with Uttar Pradesh, Gujarat and Goa recording the lowest.



We know, from separate studies, that the use of children in prostitution is also widespread. In their 2005 study, *Trafficking in Women and Children in India*, S. Sen and P.M. Nair estimated that there are up to half-a-million girl children from across the South Asian region working as prostitutes in India.

Elsewhere in the world, the existence of well-functioning justice mechanisms — and an open public debate on child sexual abuse — seems to have helped contain the problem to at least some extent. In the United Kingdom, a 2000 study by the National Study for the Prevention of Cruelty to Children found that about 16 per cent of children experienced sexual abuse before the age of 16. In the United States, one in four girls and one in six boys reported similar experiences. Horrific as these figures are, they are still well below the levels the Government of India's study suggests are prevalent in our country.

### Victims of violence

Depressingly, sexual abuse is only part of a wider gamut of violence. Sixty-nine per cent of the children polled reported having been physically abused — a term the authors of the *Study* defined as behaviour manifesting itself in kicking, slapping or corporal punishment at homes, schools, institutions and workplaces. In all the 13 States covered by the study, the incidence of physical abuse directed at children was above 50 per cent — a sign of just how widespread and legitimate the use of force is considered across the country. More than 80 per cent of children in Assam, Mizoram, Delhi and Uttar Pradesh reported physical abuse.

Most of the victims of physical abuse, the *Study* found, were very young children. Forty-eight per cent of the respondents who reported physical abuse were between five and 12 years old, while 26.29 per cent were 13 or 14. Older children, aged between 15 and 18, seemed

to be targeted less for violence; just over a quarter reported encountering abuse. Boys reported encountering violence more often than girls in all States except Gujarat and Kerala. “In all age groups, an overwhelming majority of children (65.01%) reported being beaten at school, which means that two out of three children are victims of corporal punishment.”

The findings of the *Study*, its authors noted, were broadly corroborated by several other independent studies. Maulana Azad Medical College researcher Deepti Pagare found that over three-fourths of children in Delhi’s Child Observation Home had reported being subjected to physical abuse. Signs of abuse were found on the bodies of about half the children studied by Dr. Pagare. Fathers made up over half the reported perpetrators, and Dr. Pagare found a significant association between physical abuse of children and domestic violence in homes as well as substance abuse. Save the Children and Tulir, in a 2006 study conducted in West Bengal, found that almost three-quarters of child domestic workers had been physically abused. In 41.5 per cent of cases, the perpetrator was a member of the employers’ family.

What needs to be done? For one, India’s criminal justice system simply doesn’t have either the legal instruments or police infrastructure to deal with crimes against children. Despite calls from campaigners and child-rights groups, India is yet to pass a specific law on child sexual abuse — a legislative failure that makes prosecution in many situations almost impossible. Early this year, Punjab and Haryana High Court judges Mukul Mudgal and Jasbir Singh announced that they intended considering guidelines for the prosecution of child abuse cases. However, thoroughgoing criminal justice reforms will be needed for such efforts to yield results. Just 0.034 per cent of the Plan expenditure in 2006-2007 — an appalling figure — was committed to child protection. In 1974, the National Policy for Children declared children a “supreme national asset.” No

country in which two-thirds of children report beatings, and half experience sexual abuse, can make that claim with honesty. We must rip away the shrouds of silence that conceal the sheer pervasiveness of child abuse in our society. Our silence and inaction against the paedophiles in our homes, schools and neighbourhoods make us complicit in the horrific crimes being perpetrated against our children.

## **SOCIALISM**

## **TIMES OF INDIA 17.1.10 SOCIALISM**

### **Renewing the chase for excellence**

Pritish Nandy

The world has shifted from one axis to another. The Search for Excellence that once fired the imagination of the best and the most gifted among us has been edged out. What we now celebrate is the Search for Success, that amazing spirit which powers the dreams of soldiers of fortune, gold diggers and carpetbaggers. No, this is not about moral distinctions because soldiers of fortune have also made history, shaped human destiny. As Gordon Gekko says, Greed is good. It's greed that sailed Columbus to India. He found America instead. It's greed that brought the East India Company here, made us the nation we are today. It's greed that drives modern China to such success that brings the world to Asia's door. Yet, despite that, why does unabashed greed still make me squirm?

I guess it's because we grew up with the Search for Excellence. Shops today are stacked with books that teach you only to win. Winning is not just everything, they warn you, winning is all. If you don't win, everything is in vain. What you have learnt. What you practise. What

you strive for. They add up to nothing unless you win. Winning is no more a process. It's the goal, the only goal. You can lead a race all the way but if you don't breast the tape before the rest, you don't even count for a footnote. Excellence, on the other hand, is what you spend a lifetime seeking. It's an art form, a faith. It teaches you to align yourself with the best. While success teaches you that you get only one shot at winning. Blow it, you're gone.

The distinction between the two is clear. Yet we are all confused. Excellence and success are treated as synonyms today. We forget that the winner is not always excellent. We also forget that excellence doesn't always ensure a win. I went to a school which taught me that there was no reason to fear defeat if I played the game well. But in those days, no sport was ever a gladiator sport, not even boxing. Our heroes were artistes of the game, not statistics hunters. Style defined the sportsman. Winning or losing was part of the game. In fact, we were even taught how to lose well. After all, there were always more people rooting for the losers. The underdog was the hero. The cocky winner, today's role model, was everyone's pet hate.

That's changed now. The winner is a hero today. The only hero. The word loser is loaded with shame. It symbolises not someone shouldering the heroism of loss but the ignominy of defeat. A batsman returning to pavilion with 99 rarely gets a spirited applause. There's only space for one team on the field after the game, the winners. Even if that victory is but by a whisker, the losers go out shamed. As if they have let everyone down. Even where a win is merely the outcome of a popular poll, in all probability fixed, the winner takes it all. There's instant amnesia about the other participants. The winner too is only remembered till the next season when another winner steps in and grabs the limelight. We forget past winners so easily that they even forget they were once winners. Look at Deve Gowda. He is so badly behaved and abusive that no one believes he was once Prime Minister of India. While his successor, Gujral is so embarrassed he's no longer in Race Course Road that he has slunk into a dark corner.

We are slowly forgetting that a world without losers can be dreadfully

boring. Strutting, boastful winners are not easy to live with. Ask any journalist what it would be to live in a world full of Vidhu Vinod Chopras. That's why the Search for Excellence is so crucial. It allows you the space, the bandwidth to accommodate other equally gifted people. Subodh Gupta is not the only artist around just because his works sell for the highest price. Aamir Khan is not the only star because he has given us 3 Idiots. Chetan Bhagat is not the only writer because his books sell in millions. Hits alone don't define success. Or else Dan Brown would be a greater author than Dante. Damien Hirst a better painter than Gaugin, Himesh a greater singer than Nusrat Fateh Ali Khan and James Cameron a better film maker than Satyajit Ray.

The Search for Success leaves the streets littered with corpses. Teen suicides, homicides, financial scams, white collar crimes, family break ups are the tragic consequences of the winner takes it all worldview. The pressures around us are too scary. No one's allowed not to win. By making defeat so ignominious, we are forcing losers to lose sight of life. Courage, heroism, dignity in defeat, the power to learn from one's mistakes are all yielding way to one thing: The Great Bootlick of Mammon.



