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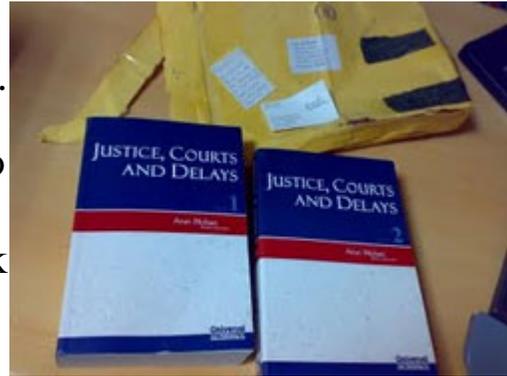
# **BOOK REVIEW**

## Of delayed justice and legal tangles

Madhusree Chatterjee

Senior advocate Arun Mohan has a mission in life: ensuring speedy justice.

The senior Supreme Court lawyer, who has been associated with courts for 39 years, had taken time off from his work to write four volumes on the Indian judicial system and the problems that confront "everyday justice" as a public service project.



The first two volumes of *Justice, Courts and Delays* were released in July at a function where the chief justice of India, the law minister and the attorney general were present.

Mohan is now working on the remaining volumes that include a look at the criminal justice system and the relevance of law in the country's economy.

*Justice, Courts and Delays* attempts to analyse the causes behind delays in justice and recommends ways to get around the bottlenecks.

"It is also an endeavour to familiarise one involved in litigation or affected by it with certain principles and facets that would possibly help one understand the situation and make known diverse thoughts that could help litigation," the senior advocate told IANS.

"Delays in justice have been criticised for years. I have tried to identify the root cause and put forward a solution that is both

affordable and possible. Of the quantum of litigation in Indian courts, over 80 percent is uncalled for.

"This occurs because our basic laws and court procedures mete out an incentive for the person who is in the wrong with the result that motivated by such 'profit', the person creates litigation (whether by himself or by forcing the other to go to court) and at the end of the day he makes a profit out of it. Resultantly, those with genuine cases get delayed. Moreover, because of delays, many people who need justice are unable to come to court," Mohan said, explaining the reasons for writing the book.

The senior lawyer said "the procedures and practices in our courts at the end of litigation do not take care to identify these factors and then pass orders that disgorge all such profits and compensate for the loss. There is also a high component of costs incurred by the party in the right which the court orders do not compensate."

Court procedures, said Mohan, needed subject-specific tailoring and an "approach by the courts which in practical terms enforces every party to 'stop-and-think-twice' prior to putting one's stand before the court."

"It ensures greater efficiency in judicial process," Mohan said.

The legal eagle said the country required a "central body to which all judicial officers can periodically send their thoughts for consideration".

Mohan said he decided in 1996 to do this research.

"Seeing the frustration on the faces of the people coming out of court, some even with tears made me think that there must be a way out. I felt that to find a solution to the problems would be a more useful way of serving society than continuing with my lucrative law

practice," he said.

Most of the law books in the country, the veteran lawyer said, generally narrate the law and current legal procedures.

"On the other hand, my book is not about what the law and practice is, but analysing present laws and practices; it delves into the question as to what the law and practice should be so as to give the maximum utility of the rupee spent in the system and speedy accurate justice to the one craving for it," he said.

Mohan said that his forthcoming volumes include discussion on how an efficient judiciary will help raise the country's GDP.

"This will occur because if the law supports transactions, reduces motivation for breach of law and checks inefficiency, it will lead to economic growth. It is like agriculture production, which is dependent on environment. National productivity, similarly, is also dependent on the efficiency of the legal system," he said.

Mohan is a Delhi University law graduate of 1970.

Published by Universal Law Publishing, the two volumes are priced at Rs 250 each.

# **E-GOVERNANCE**

## **Unique Identification number will benefit the poor**

Nilekani

The recently constituted Unique Identification Authority of India (UIDAI) headed by Nandan Nilekani, former co-Chairman of the IT major Infosys, would aim at devising a system through which the identity of a person could be established through just a call from a mobile phone.

Explaining the project at a lecture here, Mr. Nilekani said that since its objective was to help the poor in particular to access the benefits of various government schemes with greater ease, the aim was to develop a system whereby the identity of a person could be established through just a call from a mobile phone.

“If any agency wants to confirm the identify of a person, it would have just take the fingerprint of the person on a cell phone and send it across to a central database and receive authentication within seconds.”

Instead of a card, the UIDAI would only provide a number to every citizen linked to a person’s demographic and biometric information. At the time of the issue of the number, the Authority would seek certain basic information such as the name, date of birth, place of birth, gender, and the address of the individuals and take their photograph and fingerprints.

The database would be developed in partnership with the Government and private agencies, such as mobile service providers, cooking gas outlets, passport offices, NREGA and PDS authorities.

“The moment a person comes in contact with any of the partner agencies, their details would be collected and the unique identification number would be issued. Once a person gets the number, he or she would have to just quote it on approaching another service provider.”

The aim of the project was to be provide a robust system to eliminate duplicate and fake identities, apart from verification and authentication of the identity in an easy manner, Mr. Nilekani said. The system would be developed in such a way that whenever a partner agency sends the data of an individual for registration, the central database would perform a search on key demographic and biometric attributes so that there was no duplication.

Noting that the present situation of multiple databases gave individuals “an incentive” to provide different personal information to different agencies, he said that since the mechanism for de-duplication in the UID system would ensure that the residents would have only one chance to be in the database, the individuals would provide accurate data. “The incentives for giving correct information would become especially powerful as benefits and entitlements would be linked to UID.”

Giving the lecture at the 67th foundation day celebrations of the Council for Scientific and Industrial Research, Mr. Nilekani said the UIDAI planned to start issuing the identification numbers in 12 to 18 months and cover 600 million citizens over the next four years.

While the largest such database currently available anywhere in the world covered only 120 million persons, the one being set up in India would cover 10 times more persons, he said. “It is certainly a gigantic task with several technological challenges. But, we will do it.”

# **EDUCATION**

## **Developing a vision for the university**

V.K. TRIPATHI

Critique of Yashpal Committee report on higher education from the perspective of self-reliance and freedom

The Committee to advise on renovation and rejuvenation of Higher Education, headed by Prof. Yashpal, has submitted its draft report to MHRD. The report has some innovative suggestions. It proposes research laboratories to engage in teaching in neighbouring universities; wants universities to have on-campus undergraduate (UG) programmes so that top-ranking professors and researchers could teach and interact with younger minds; moots that single discipline institutes like IITs and IIMs be converted into sort of universities where horizontal mobility and cross-discipline knowledge could be acquired and projects become an integral part of learning; wants subsidiary courses replaced by elective courses from among the main courses of other departments; every needy student be provided with loan or scholarship; and university teachers be trained through orientation programmes, and so on.

### **Recommendations**

It proposes full autonomy to universities and recommends the creation of a National Commission for Higher Education and Research by dissolving bodies like the UGC and the AICTE.

These are useful recommendations. Yet the report overlooks the cause of affiliated colleges, where 80 per cent of UG students study, and of those who have no access to higher education. There are two distinct streams of students in higher education — those coming

from government schools or low tuition schools with a weak command on English and lack of worldly exposure; and those coming from public schools with a strong career motivation. How would the two fit in the same programme of study? How would they gain self-reliance and commit themselves to the uplift of those who are left behind? These are serious issues and it is in this context that the vision of ‘university’ should have been developed.

Quality improvement could begin with a tutorial component to lectures to develop conceptual clarity. But a major problem is that a majority of the colleges are away from university campuses, and hence the UG students cannot have the privilege of lectures by university professors/researchers. Computer-aided lecturing could be an option (a distant next best) but the tutorials must be conducted locally. A reorientation programme must run for students with deficiency in the medium of instruction and exposure.

### Quality teaching

The major responsibility for teaching should lie with the local faculty. Ten years ago, the total number of teachers, spread in 11,000 colleges of the country, was above 2.5 lakh.

For quality teaching they need to be activated/ involved in research. Five years ago, only three per cent of research money was used for extramural research (the research conducted in colleges, universities and IITs). The rest was used in research laboratories with hardly any teaching component.

A very major shift in the distribution of research funding and research policy is required. In order to impart technical/professional skills to every student, from the perspective of his/her self-reliance, the walls between professional/technical and non-professional colleges must fall. In March 2007, the country had 2,439 engineering colleges and 1,917 polytechnics with an intake of 6.36

lakh (B.Tech. first year) and 3.38 lakh (diploma first year). Besides, 996 institutes offered MCA and 1,119 offered MBA programs with annual intake of 53,000 and 89,500 respectively.

These institutes can be galvanised to give access to B.A. and B.Sc. students of non-professional colleges in their professional courses at a reasonable cost. The biggest deficiency of higher education is its inability to develop sensitivity and commitment to freedom.

May the concepts of surplus value and per capita GDP be ingrained in students' psyche so that they could quantify exploitation and feel for the masses, cutting across caste and religious lines. As one envisions to bring all the interested senior secondary graduates into the realm of higher education, the tuition fees for any UG programme of study must remain below the per capita GDP; thus half the cost must be borne by the state or prospective employers who are the real beneficiaries.

*(The writer is Professor of Physics, Indian Institute of Technology, Delhi.)*

## Case for legal literacy at school curriculum

D. RAJA GANESAN

The proposal mooted by Kapil Sibal, a leading lawyer and now Minister for HRD, Union Government, has come not a day too soon. A fundamental postulate of our Criminal Procedure Code is that “Ignorance of law is no excuse”. That is, one who unwittingly transgresses the law cannot plead that he should not be punished just because he is not aware that his act is proscribed in the statutes; no, even if he proves his ignorance he is deemed culpable in the eyes of law.

But our educational system which keeps children in schools for 12 long years — if not more — does not impart the minimum functional knowledge of law that is indispensable in the prevailing legal environment. It is ironical to note that both our educational and legal systems were conceived by Lord Macaulay who is looked upon as the villain of the piece in ushering our educational system! But it is not accidental. Education and Law are normative social sciences and they were deliberately confined to the elite during British rule. And, worse, both continue to be as they were — under the control of the state.

In other words, it is the state which imparts an education which does not teach the laws that it stipulates everyone must conform to. So every trial partakes of the grotesque nature of Franz Kafka’s story ‘The Trial’ in which the hero is tried for an offence which he did not commit through laws and procedures that he does not understand!

### Objective evidence

An offshoot of this situation is a burgeoning population of lawyers and vested interests in mystifying the text of the statutes and perhaps in protracting the trial process: even an educated man with a strong

common sense is at a loss to comprehend what the charge against him means, and how his act is an infringement of the law cited. Even a Professor of English needs a lawyer to defend him, to explain to him what the legal document says.

Often, justice as agitated for by lawyers in successive courts of law and delivered by the Supreme Court or the penultimate benches of a high court after decades of protracted litigation is far from what common sense and conscience tell us. I sense that both the plaintiff and the defendant leave the court on the day of the judgment with a sense of having been short-changed. Of course, the judge is bound by the letter of the law, the canons and conventions in their interpretation and the ultimate criterion of objective evidence.

The havoc wrought by this criterion of objective evidence is that justice has been divorced from conscience and aligned to the letter of the law and the evidence is often tailored and programmed into the trial process. It is the lawyers who have the field before them to mutilate, tear apart, distort, stretch to elastic limits and pounce upon a small hole and enlarge it for the culprit to escape conveniently.

As a famous Tamil writer said in reply to a question on why he should not go to a court of law against a film producer who had patently plagiarised one of his well known novels, “If we go to a court of law it is lawyers who triumph eventually (and, not the plaintiff or the defendant or the judge!)” The situation was not this bad before the advent of the British in India. The proverbial definition of an educated man in ancient India was ‘one who knew the four Vedas and the six sastras’, the former showing the pathway to liberation from the mundane world and the latter being a guide to our conduct in and through this very mundane world.

The lawyer-turned HRD Minister’s move must be a beginning towards demystifying law, spreading the knowledge of law far and

wide through formal education and thus preventing unwitting transgressions of law in the first instance and equipping everyone to defend himself when he is wrongly caught and arraigned.

*(The writer is a former Professor and Head, Department of Education, University of Madras.)*

# **INTERNATIONAL RELATION**

HINDU 25.9.09 INTERNATIONAL RELATION

**China, India show the way**

Nicholas Stern

This week's summit on climate change at the United Nations in New York has given a strong boost to the negotiations over a major international treaty, but there remain a number of major obstacles that must be overcome before the crucial meeting in Copenhagen in December. China, India and Japan, along with the private sector, all made positive and significant contributions at the summit.

Hu Jintao, the Chinese president, made specific commitments on curbing the growth in greenhouse gas emissions as China continues its extraordinary economic growth. While the president promised a reduction by a "notable margin" rather than a specific figure, there is no doubt that the cut will be significant. And the environment ministers of both China and India made important and constructive proposals for how their countries will reverse deforestation.

This was the kind of leadership that I had hoped to see at the summit — organised by Ban Ki-moon, the U.N. Secretary-General — with developing and emerging countries showing that they can tackle climate change while continuing their efforts to reduce poverty. But we still have a long way to go before we can be sure that a strong agreement is in place for Copenhagen.

In the next couple of years, annual emissions of greenhouse gases are likely to reach a level of 50 gigatonnes of carbon dioxide equivalent. If we are to have a reasonable chance of avoiding a rise in global average temperature by more than 2{+0}C, annual emissions have to be cut to no more than 20 gigatonnes by 2050.

That means that the 9 billion people who will be living on the planet in 2050 must be producing, on average, no more than about two tonnes of greenhouse gases per year each. At the moment, the rich industrialised countries of the European Union average about 10-12 tonnes per head of population, while the figure for the United States is almost 24 tonnes. China, by contrast, emits about 6 tonnes per head at present. Thus rich

industrialised countries in particular must substantially reduce their emissions.

The developed countries must now demonstrate that they have the political will to reach a strong agreement in Copenhagen. In New York Japan's new Prime Minister, Yukio Hatoyama, outlined how his country will reduce its emissions by 25 per cent by 2020, compared with 1990. This was a positive example that few others matched.

President Obama has already committed to a cut of 80 per cent in greenhouse gas emissions by 2050, compared with 1990. But the American Clean Energy and Security Act passed by the House of Representatives sets an interim target for 2020 that is not considered ambitious enough by many other countries. And it is not clear when, or even if, the Senate will pass a comparable act to reduce emissions.

It is these interim targets that should now be addressed by all countries during the coming weeks. If we are to reach the goal of reducing emissions to 20 gigatonnes by 2050, we must be at about 35 gigatonnes by the halfway point of 2030.

That means global emissions have to peak within the next five years and be steadily falling by 2020. And while the commitments by the largest emitters already on the table for 2020 offer significant cuts relative to today's emissions, they collectively fall 4 or 5 gigatonnes short of what is necessary if we are to be on a realistic trajectory to reach the 2030 and 2050 targets.

Developing countries should also sharply reduce their emissions, but they must be supported, financially and through technology sharing with the rich industrialised countries. Without commitments to such support, the negotiations ahead will prove very difficult. Although the political leaders must devise and implement the right policies to guide national and global emissions trajectories, it is the private sector that will be the main engine in the transition to a low-carbon global

economy.

In that respect, it was very encouraging that 181 investors, collectively responsible for the management of more than \$13 trillion in assets globally, launched a statement in New York last week to support a global agreement on climate change. The Leadership Forum for business leaders, which ran alongside the summit, also highlighted a tremendous variety of innovative ideas from within the private sector for the low-carbon transition. So there are some reasons to be more optimistic about the prospects for securing a strong agreement in Copenhagen, following the New York summit. But the obstacles that remain are very big and will require an even stronger effort to overcome, starting at the G20 summit in Pittsburgh and continuing during the coming round of treaty negotiations in Bangkok next week.

There must be real vision, leadership and creativity, as well as a mutual understanding of the difficulties of making and implementing domestic policies. But if we can muster the effort, we can, as a world, forge a path towards a more prosperous and sustainable future — for us, our children, and generations to follow.

*(Note: Nicholas Stern is chair of the Grantham Research Institute on Climate Change and the Environment at the London School of Economics and Political Science.)*

TIMES OF INDIA 27.9.09 INTERNATIONAL RELATION

**Middle path the way to peace with Pak?**

## Gurcharan Das

The foreign ministers of India and Pakistan are meeting today in New York to carry forward the peace dialogue begun at Sharm el-Sheikh. India's decision to meet has been prompted by Pakistan's "arrest" of Hafiz Saeed, the mastermind of the Mumbai terror attacks. Many Indians feel cynical, however, about today's meeting, especially after the disappointment at Sharm el-Sheikh. Negotiating with a nation, whose secret service might be plotting the next terrorist attack on you, seems bizarre, but is there an alternative to the slow, maddening grind towards peace with our neighbour?

All of us dream of waking up one day to discover that the border between India and Pakistan has become as peaceful as the one between Canada and United States. It seems hopelessly romantic, but this is precisely what happened to France and Germany who were in perpetual conflict for 75 years. Now, one cannot imagine these two European enemies ever going to war. If India and Pakistan could pull this off, we might even realize the vision of C Rajagopalchari, who wanted the sub-continent to become re-unified into a peaceful confederation of nations like the European Union.

After the terrorist attack on Mumbai on 26/11, Indians were divided over how to respond. The hawks wanted to make a precision attack on the camps of Lashkar-e-Taiba. They modelled their strategy on Israel's retaliation for the attack of its athletes in Munich. (You can watch it in the thriller, Munich, available on DVD.) The doves, on the other hand, advocated ahimsa, preferring to take the high moral ground and turn the other cheek. The third position was more circumspect and lay between these extremes. It is the policy which the Indian government has patiently pursued — providing dossiers of evidence to Pakistan, hoping

that world pressure would force it to act against the terrorists. Will this frustratingly slow middle path reward us with lasting peace?

The Mahabharata seems to think so. Unique in engaging with the world of politics, the epic also had to wrestle with the same three positions. The first was the ‘amoral realism’ of Duryodhana, who believed that ‘might is right’ and when in doubt strike your enemy. At the other extreme was the idealistic position of the early Yudhishtira, who refused to follow Draupadi’s sensible advice, which was to gather an army and win back their kingdom stolen by the Kauravas in a rigged game of dice. The epic also adopted a pragmatic, middle path of negotiation, but when Duryodhana refused to part with the Pandavas’ rightful share, Yudhishtira had to declare war.

Mahabharata would, thus, reject the hawkish idea of a retaliatory strike against the terrorist camps in Pakistan — not for ideological reasons, but because it would only escalate the conflict. Israel’s many retaliatory strikes against Palestine have failed to ‘teach them a lesson’. It would also reject the dovish high moral ground of ahimsa because ‘turning the other cheek’ sends wrong signals to terrorists and the ISI. It would commend upright Manmohan Singh’s middle path of negotiation. But if negotiations fail, the Indian PM must be prepared to wield danda, ‘the rod of force’, just as Yudhishtira had to.

This pragmatic middle path is akin to the evolutionary principle of reciprocal altruism, which socio-biologists have made popular in recent decades — smile at the world but do not allow yourself to be exploited. Your first move should be of goodness, but if you are slapped, then you have to reciprocate and slap back. Many Indians believe that our

government is not following this sensible advice. We are either too conciliatory or too scared of Pakistan's nuclear weapons. Hence, Pakistan thinks us weak, and its secret service has no qualms in planning its next terrorist strike.

This is not entirely true. We may be unwilling to play 'tit-for-tat' but we have never compromised on our basic principles. Take Kashmir.

Pakistan believes that peace with India depends on settling the Kashmir dispute, which is a doubtful proposition. India has held firmly that the answer to Kashmir lies in getting everyone to accept the Line of Control as the permanent border. It is true we have lost many historic opportunities to achieve this. Our best chance was after the Bangladesh War when we should have made it a condition at the Shimla Conference for the exchange of Pakistani officers and soldiers.

As the bigger and more powerful nation, India has to be more conciliatory. As the world's second fastest growing economy, we cannot afford to be distracted by interminable 'tit for tats'. Yes, Pakistan does drag us into a pit of identity politics, hobbles us at every step, and sidetracks us from our real destiny. This is all the more reason to accept the slow, hard and frustrating grind towards a negotiated peace. In the meantime, the best medicine is to try and ignore Pakistan.

# **JUDICIARY**

TIMES OF INDIA 29.9.09 JUDICIARY

**Will 'devout' India listen to Supreme Court?**

## Rajesh Kalra

The Supreme Court's interim order, banning any fresh construction of religious places in public places would be welcomed by most. In a country where a lot of land grabbing happens in the garb of religion, this order has not come a day too soon. But given the penchant of our political for using religion, and the resultant divide, to their advantage and the religious leaders' uncanny ability to misuse this situation, I doubt if anything good will come of it.

I know a number of you will pan me as being an eternal pessimist. Let me assure you, I am an optimist, in more ways than one, but when it comes to the issues of governance, and our ability to enforce rules, I am practical.

Honestly, what difference would this order from the honourable apex court really make? We are flouting its directives every day, and the way things happen, we actually may not need to construct anything new in any case. The other day, India's showpiece toll road, the Delhi-Gurgaon Expressway, was shut for hours as thousands sat in the middle of the road to offer Eid prayers. Now, you could argue that this is no new construction on public place, but will the apex court's directive be interpreted to read that this also amounts to using public places for religious activities? In my interpretation it does, so does a lot of other stuff that goes on in the name of religion all over the country, all the time.



(Eid prayers being offered on the Delhi-Gurgaon Access Controlled Highway)

When wedding processions block the entire thoroughfare, causing immense hardship to the common man, they flout the rules. When I am subjected to loud music and noise throughout the night because some people are trying to make their prayers heard by organising a "jagrata" (overnight music sessions to please gods and goddesses), it intrudes into public space, thus flouts the rules. When the administration shuts down the national highway that links Delhi to Haridwar because the "kanwarias" - devotees of Shiva who walk on foot from Haridwar with Ganga water to their hometowns hundreds of kilometres away - are on their annual pilgrimage and are also scared that they would end up in a spat with motorists, it flouts the rules. This list goes on. It seems any part of the country can be turned into a religious place at will, so why bother constructing!

We all have the freedom to follow our religion, but does it have to happen in a way that it creates hardship to others?

Now come to the practicality of this order. I am sure the Supreme Court verdict would be enforced only where it is unambiguous, if at all. The stretched, as well as disinterested authorities, will turn a blind eye to all else that should also fall within its purview. So, when a million people want to congregate at one place, the authorities will have a practical response to why something can and cannot be done.

There are many instances of court rulings being flouted or not implemented in their true spirit. The apex court, almost a decade ago, passed orders that in Delhi, all buses must drive in the left 'bus' lanes alone and change lanes only when the bus is close to a traffic signal. It also said a bus should never overtake another bus. But 9 out of 10 buses in Delhi are committing contempt of the highest court of land day in and day out.

For all those who feel that the days of encroaching public parks, hill sides, middle or side of the roads in the garb of religion are now over, I suggest hold on to the bubbly, yet.

# **POLITICS AND GOVERNMAENT**

HINDUSTAN TIMES 26.9.09 POLITICS AND GOVERNMENT

**Discordant notes**

Sitaram Yechury

Every political party has its own set of rules and moral standards by which it decides on discipline. For outsiders, therefore, the BJP's decision to expel Jaswant Singh is a non-issue. However, the recent controversy shows that the BJP is in the grip of an irreconcilable contradiction. In the last two decades, while LK Advani's 'rath yatra' brought aggressive Hindutva to the fore mobilising its hardcore support base, the experience of the 13-day AB Vajpayee government in 1996 made them realise that such support alone was insufficient to capture power and that they needed allies. Thus was born the National Democratic Alliance (NDA) and the 1998-2004 Vajpayee government.

The need for allies, however, forced the BJP to put its Hindutva agenda on the backburner. This, in turn, made the Rashtriya Swayamsevak Sangh (RSS) uncomfortable and also alienated the party's hardcore support base. When Advani attempted to broaden the BJP's appeal by speaking favourably about Mohammad Ali Jinnah's secular credentials, the RSS forced him to quit as the BJP president.

Advani's presumption, expecting support from Indian Muslims on this count, was outrageous. In the 1951 census, the first after partition, India had 374 lakh Muslims while West Pakistan had 337 lakh Muslims. More Muslims stayed back in India because this was their place of birth and this is where they chose to live and die. It was preposterous to expect them to be enamoured by Jinnah's two-nation theory that left in its trail 10 lakh dead and 150 lakh refugees.

If portraying Jinnah in favourable light led to the expulsion of Jaswant Singh because it went against "the core ideology" of the RSS-BJP on the grounds of the two-nation theory, then what does the BJP have to say about Veer Savarkar, who, three years before Jinnah's Muslim League, advanced the two-nation theory at Lahore in 1940. In his 1937 presidential address to the Hindu Mahasabha, he said: "India cannot be assumed today to be a unitarian and homogeneous nation, but on the

contrary, there are two nations, in the main, the Hindus and the Muslims”. Jinnah was only carrying forward the “cherished mission” of Savarkar, whose portrait was so ceremoniously put up in Parliament by the Vajpayee government.

Clearly, the ideological battle between the three visions, which emerged during the course of our freedom struggle in the decade of the 1920s, continues to impact the consolidation of the modern secular democratic Indian republic. The mainstream vision, represented by the Congress, envisioned independent India to be a secular democratic republic. Distinct yet not antagonistic was the Left vision that wanted to transform the political independence of the country into the economic independence of our people, i.e. establishment of socialism.

The right-wing vision, however, was always distinct, antagonistic and conflicting. It envisaged independent India to be a country whose character was defined by religion. This vision found twin expression in the RSS that advocated its fascistic ‘Hindu Rashtra’ and the Muslim League that pushed for a separate Islamic state.

The fact that Jinnah succeeded and the mainstream vision prevailed in India created conditions that culminated in the assassination of Mahatma Gandhi. In order to obfuscate the role of the RSS and its political arm, today they are attempting to appropriate Congress’ ‘man of steel’ Sardar Patel and also trying to forge a link with the freedom struggle where there was none.

In a government communique (February 4, 1948) Sardar Patel, who was then the Union Home Minister, announced the ban on the RSS by stating “the objectionable and harmful activities of the Sangh have, however, continued unabated and the cult of violence sponsored and inspired by the activities of the Sangh has claimed many victims. The latest and the most precious to fall was Gandhiji himself”.

Advani now says that this was done at the behest of Jawaharlal Nehru. Even if that was the case, their appropriation of Patel remains inexplicable. On November 14, 1948, Patel issued a ‘press note’ on the talks that were held with the then RSS chief, MS Golwalkar, who made many deceitful compromises. This informs that the “professions of RSS leaders are, however, quite inconsistent with the practice of its followers” and Patel refused to withdraw the ban. A further request by Golwalkar for a meeting was refused by Patel who ordered his return to Nagpur. It was only on July 11, 1949, that the ban was withdrawn when the RSS accepted the conditions set by the government including that it shall remain a “cultural organisation” “eschewing secrecy and abjuring violence”.

The current identity crisis in BJP is due to the irreconcilable contradiction that we spoke of at the beginning of the column. The BJP’s crisis and the increasing control of the RSS over it is a grave challenge for India’s secular democratic fabric.

*Sitaram Yechury is CPI(M) Politburo member and Rajya Sabha MP*

PIONEER 27.9.09 POLITICS AND GOVERNMENT

**High and happy in Diwali Democracy**

MJ Akbar

Rio de Janeiro or Munich might enjoy a reputation wrapped in an advertising package, but there is no country in the world that can compete with India when it comes to celebration. Others might turn a weekend into a party and pat themselves on the back, but when an Indian gets into a festive mood, time goes to sleep for 10 days, and then wakes up most reluctantly. Who knows when Diwali begins, although we do have a reasonable idea of when it ends. It ends the day you stop losing money.

Of course we Indians celebrate in the name of religion, but then there is very little in India that remains untouched by faith. We even gamble in honour of the gods. Our holidays are an extension of religious tourism. Religion works in India because we make it so much fun, whether it be the worship of Ganapati Bappa Moriya in the west or Ma Durga in the east.

The rest of the world may have forgotten that ‘holiday’ is a combination of ‘holy’ and ‘day’, but not West Bengal — except that Bengalis do not believe in the singular. Celebration is plural in every sense: Spread over days, and enjoyed in the togetherness of family, friends and that special kinship which makes a metropolis like Kolkata a swirling city of community affections. London and New York might also claim that they do not pause between Christmas and New Year’s Day, but there is a great difference. In the West, every home comes alive but the city falls silent. In Kolkata the city becomes home and home becomes the city. If you have not experienced Durga Puja in West Bengal, you have missed a true human wonder. There is no way that Mr Pranab Mukherjee or Ms Mamata Banerjee would be anywhere except at home during ‘Pujo’. I hope I am not accused of exaggeration and excess, but I daresay that even a Marxist atheist like Mr Buddhadeb Bhattacharjee smiles during Durga Puja.

And if this mood is burnished with special effects, all the better. Rome

might boast that it is the ultimate destination in religious tourism, but Rome offers the visitor the political and cultural history of the West in its stones. Kolkata, in comparison, is a young city with less-than-impressive British buildings, many of them seemingly unpainted since the British left. The art of Rome is a magical explosion of individual genius. The art of Durga Puja is a magical explosion of anonymous genius. Each image is beautifully crafted with the commitment of adoration, but the Kumartuli craftsman knows that the goddess will go away, along the river, just as we all will one day. Rome preserves marble; Kolkata preserves the moment.

Why then has the Election Commission, a body of intelligent, experienced and utterly reasonable men, become such a party pooper? We may no longer have the highest opinion of our politicians, but, as full-fledged Indian citizens, Arunachal Pradesh, Haryana and Maharashtra's politicians have as much right to a happy Diwali as the rest of us. Instead, they have been condemned to the misery of a campaign. For half the lot the anguish will end in a death pang when they get the results and learn that they have lost. They also know that only the very stupid or the very arrogant are confident of victory. This is why all political parties were happy when the Election Commission decided to declare the results on October 22, nine days after polling on 13 October. When a suggestion was floated that the results could be announced earlier, politicians pleaded with the commissioners to announce their fate only after Diwali — no one wanted bad news during the festival. This is what is known as a perfect Indian solution.

Many reasons have been offered for the sharp paucity of women candidates in the lists of all parties, the most frequent being gender bias. This is true. If you removed women who became candidates because they are children or wives of Big Shots, their percentage would shrink further. Men still cannot get over the fact that theoretical rights have to be converted into practical numbers. But one would not be surprised if some women with the potential to become candidates decided, sensibly,

that this was too much of a mug's game in any event, so why waste a Diwali on such a barren objective?

Moreover, women are not very good at distributing liquor. The Mumbai excise department has passed an order that all bars in the city must report their daily sales till election time, so that it can judge, from any sharp hike, whether a candidate has been especially hospitable. I don't know what kind of bureaucracy the excise department has, but it is obvious that it has absolutely no clue about how elections are managed.

There are two ways in which happiness is spread prior to an election. The first is through the distribution of cash to the straggle of sycophants charmingly described as 'party workers'. These chaps start getting their handouts from the moment a candidate files his nomination. The 'party worker' spends about a quarter of this cash for the benefit of the voter, and the rest on numerous benefits for himself. This might or might not include an investment in the joys of liquor. The more conscientious family types might, for instance, buy better furniture for their homes, or a larger refrigerator to keep the wife happy. But it is safe to assume that business at Mumbai's bars will show a sharp rise from Friday the 25th of September and maintain a steady upward incline till October 12. If the excise department asks the bar owner for an explanation the latter will attribute it to the Diwali spirit.

The disbursal of alcohol to the masses, a well-recognised facet of Indian democracy, does not happen through bars. Bars charge a huge premium. No candidate, however well-heeled, has money to waste. Bottles are purchased wholesale and distributed in the camouflage of dusk. The excise department should check out wholesale merchants, not retailers.

The spirit of Diwali will demand an extra supply of benevolence in this election season. For the political class in Maharashtra and Haryana, Diwali will come early. Many of you have probably become cynical enough to describe our system as Diwala (the Hindi word for bankrupt)

Democracy, but I remain faithful to the system. Happy Diwali  
Democracy!

-- *MJ Akbar is Chairman and Director of Publications of the  
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PIONEER 28.9.09 POLITICS AND GOVERNMENT

**Coalition era ending soon**

Arun Nehru

The great by-election battle is over and electoral results from 49 seats cutting across 12 States give a clear political message. Nonetheless, it would be premature to form conclusions about future political trends on the basis of these. The Congress in total lost seven seats while the BJP gained a sum of five seats. The latter's success mainly came from Gujarat where the party won five out of seven seats that were held by the Congress. The BJP won one out of two seats in Madhya Pradesh, both of which were Congress seats. In Bihar where the RJD-LJP combine won nine of the 18 seats that went to polls, the BJP managed to retain its three seats. The losses in the State were mainly confined to the JD(U). In Uttar Pradesh the BSP won three seats, whereas in Delhi the Congress lost both the two seats that were up for grabs and also performed poorly in the Delhi University Students' Union election.

There is a clear political message in these results for all political parties. Assembly elections are very complicated compared to Lok Sabha elections. Selection of candidates in the former is a very important issue and often local issues and local leaders prevail over the decisions and choices imposed by the State leaders. For example, look at the plight of Bihar Chief Minister Nitish Kumar who gave many a ticket to defectors from the RJD after the Lok Sabha election earlier in the year. However, most of them lost in the by-elections. The BJP confusion on leadership and ideology had cost the party in the Lok Sabha election, but the effect of this was not apparent in the by-elections.

The Congress setback in Gujarat reinforces the need for a change in leadership in the State. Although statistically speaking the party did not lose much in Delhi and Uttar Pradesh. But the question is whether these trends will repeat in the Assembly elections in Maharashtra and Haryana. I don't think this will happen since the forces underlying the by-election trends cannot be taken to be representative of an entire State. Conditions vary in each region and in Maharashtra the Congress-NCP alliance looks stronger than the BJP-Shiv Sena combine, which can

suffer due to the MNS factor. While inflation in food prices and anti-incumbency trends are major issues, I see the Congress emerging as the single largest party in the State. In Haryana the Congress should win comfortably as the INLD, Bhajan Lal and son, the BJP and the BSP individually are prone to fragmentation. The Opposition in the State is in confusion and is hardly expected to match Chief Minister Bhupinder Singh Hooda although he may have trouble handling dissidence within his party.

There are no vacations in politics and important Assembly elections in 2011 may determine the Lok Sabha trends for 2014 in key States. Five States representing close to 200 Lok Sabha seats go for Assembly polls in 2011. These are West Bengal, Kerala, Uttar Pradesh, Bihar and Tamil Nadu. The Congress with 200 seats plus in 2009 may well look at 250 to 300 seats in 2014. This is within its reach as the party is favourably placed in West Bengal, Kerala and Tamil Nadu. It is Uttar Pradesh and Bihar that hold the key to the future. The political battle in Uttar Pradesh is evenly matched between the BSP, the SP and the Congress while in Bihar the fight is still between the JD(U)-BJP combine and the RJD-LJP alliance. We must follow developments in these five States keenly as they hold the key to the future formation of the Union Government. After more than two decades of coalition politics we may be heading for majority rule once again. And for all political parties good planning and governance is always based on a long-term strategy.

Meanwhile, we have witnessed a great deal of activity with regard to Hafiz Mohammad Saeed who masterminded the 26/11 terror attack on Mumbai. But despite pressure from the US and repeated insistence by India to try the Lashkar-e-Tayyeba chief for terrorism, Islamabad is unmoved. This is because the entire Pakistani establishment has been infiltrated by hardliners who are sympathetic to groups such as the LeT and the Jaish-e-Mohammad. Our bilateral relationship with Pakistan is like a game of musical chairs. Islamabad takes two steps forward, but when its aid from the US is threatened, it takes three steps back. For, it

knows that the US is stuck in Afghanistan and have few options other than relying on Pakistan.

Hafiz Saeed is supposed to be under house arrest but was an honoured guest at a Pakistani Army iftar! Our options with respect to dealing with Pakistan are limited. But are we displaying the right attitude towards those who indulge in terror acts against the country? Political compromises are a part of life. But is it not strange that while we go through the rituals of paying tribute to our martyrs and heroes of the Kargil conflict, we still entertain and give prominence to the Pakistani Army dictator who was responsible for this conflict?

The position is no different in the case of the 26/11 attack where the lone terrorist caught alive Ajmal Amir Kasab's trial can take five to 10 years to be decided, and then perhaps another five to 10 years for the Government to take a decision on the court verdict as we see in the case of Parliament attack convict Afzal Guru.

The Home Minister is without a doubt creating the infrastructure and the expertise needed to handle the security situation in the country better. But what we need is the political will and determination to pursue a 'zero tolerance' on terrorism.

More often than not political accidents determine the course of events. In the past 50 years little has been achieved through planned political action. External and internal security constitute our greatest challenge for the immediate future and the situation is deteriorating by the day. This is due to our denial of the ground reality. The GDP growth of the past few years has generated enormous wealth in our political structure and dynastic strains have now extended to individual seats. The prospect of acquiring huge financial assets combined with the allure of excessive security and Government facilities is weakening our polity.

PIONEER 28.9.09 POLITICS AND GOVERNMENT

*Hai mehangayi tu kahan se aayi?*

Sidharth Mishra

This Navratra has been a real struggle to come to terms with the ever spiraling rate of inflation. Several incidents during the last nine days repeatedly reinforced the fact that price rise has changed the way people looked at several things. Could you ever think in the past of walking to a banana seller pulling a hand cart with a currency note of Rs 500 to buy a dozen of bananas?

I actually approached a banana seller with Rs 500 note and sheepishly asked him if he would have the change. He asked, what was the quantum of bananas which proposed to be purchased from his cart. I said a dozen, he asked for the note. He packed a dozen of robust bananas into a polythene carry-bag (one thought a ban was in place) and returned the change after deducting Rs 40.

So that's banana split for you. It gives the flavour of mehangayi (inflation) this festive season. Before I had actually bought the banana I never thought that this ubiquitous fruit, made so popular in RK Narayan's novels as staple food of an ordinary Indian, could actually cost so much. Two, seeing the banana seller counting the thick wad of currency notes has made me believe that soon the Reserve Bank of India would have to come out with currency notes Rs 2,000 denomination.

Bananas are not only the ones burning holes in my pocket this Navratra. Early morning everyday it's a struggle to buy three proper garlands of marigold for a reasonable cost. Last year, it did not cost more than Rs five for one garland. The flower seller would also put some extra flowers into the packet as complimentary. This year they are asking for Rs 15 per garland and no complimentary extra flowers with it.

On the first day of Navratra, the devout buyers found the rates difficult to accept. The seller was ready to strain his several-year-long relationship with the buyers but not bring down the price. Thank

God(dess), good sense has prevailed. From the third puja onwards, the seller has started to insert white beli flowers between the marigolds and is selling the garlands for a mutually acceptable Rs 10.

On returning home after buying the garland when I find the newspapers telling us about Prime Minister Manmohan Singh's address of worst was over on the economy front, a desire arises to suggest the economist-PM to take an early morning walk and try buying some bananas and marigold garlands. The Government, through the official figures it releases every week, has grudgingly accepted that there has been rise in the price of vegetables by about 44 per cent.

It's not true. Try buying the potatoes and you would know how hot they are. They have witnessed more than 100 per cent rise in price. Butter has vanished from the market and milk is in short supply. Pulses becoming out of reach of the aam admi is an old story and people are now waiting for rice to get costlier. So the common man's two square meals of khichdi and chokha (mashed potatoes) has now indeed become a luxury. Simply unaffordable!

I do not know if the Congress president, Sonia Gandhi, and heir Rahul Gandhi have any interest in the films made by Manoj Kumar. After all, their family friend Shah Rukh Khan had treated Kumar with quite derision in Om Shanti Om. But it would be worthwhile to watch his 1975 make Roti, Kapada aur Makan. The film dealt with the issues of recession, inflation and unemployment with a telling effect.

All these issues prevail today. The film deals with the period when Indira Gandhi turned arrogant soon after leading the nation to a resounding military victory during the Bangladesh war and Congress to an electoral victory in the General Election on the catchy slogan of Garibi Hatao. The Opposition led by legendary Jai Prakash Narayan raised a successful movement against the government and dethroned it in the next poll in 1977.

The Manmohan Singh government is lucky that the Opposition today lacks a leader of the stature and vision of Jai Prakash Narayan. JP despite his frail health and age, led an austere life, did not just fly austerity class, and took the risk of plunging himself in public agitation. Today none in the Opposition has the physical and mental strength to lead a long drawn public agitation on economic issues. This is Congress's real advantage over the Opposition.