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BOOK REVIEW

HINDU 14.12.10 BOOK REVIEW

A fascinating memoir

NIRUPAMA SUBRAMANIAN

MY LIFE WITH THE TALIBAN: by Abdul Salam Zaeef;
Translated by Alex Strick van Linschoten and Felix Kuehn;
Hachette India, 612/614, Time Tower, MG Road, Sector 28,
Gurgaon-122001. Rs. 495.

After Ahmed Rashid's definitive book on the Taliban, there have been few studied accounts of the movement that has managed to keep the U.S. military tied down in Afghanistan for a full nine years. But the war has ensured that, in the decade or so since the publication of Rashid's book, the world has come to know much more about this phenomenon called Taliban.

To this knowledge, a gripping insider account — of how the movement emerged, took power in Afghanistan, and ruled until the U.S. mounted attacks after 9/11 — adds an unmatched perspective.

Abdul Salam Zaeef aka Mullah Zaeef, author of this fascinating memoir — a Mujahid who fought the Soviets in the first Afghan war — was an important player in the Taliban, right from its early days up to the time its regime was swept away by the American attack on Afghanistan. Zaeef's narrative is often self-serving — which autobiography is not? But it gives an insight into the internal dynamics of the movement, especially in the days immediately before and after 9/11.

Face of the Taliban

In those tumultuous days, Zaeef was the Afghan ambassador to Pakistan, emerging as the face of the Taliban. Pakistan was one of the three countries that recognised the Islamic Emirate of Afghanistan, the other two being Saudi Arabia and the UAE.

Zaeef speaks of the pressures that were building up on the Taliban-run Islamic Emirate of Afghanistan — specifically on him — from the U.S. and Pakistan, in the months before the Twin Tower attacks: how the Americans wanted the Islamic Emirate to hand over Osama bin Laden, and the Taliban's response to this demand; how the U.S. diplomats and the ISI repeatedly met him to say that Osama was planning a big attack on American soil from Afghanistan, and warn of U.S. retaliation; and how, when 9/11 happened, Mullah Omar, the one-eyed Taliban leader, believed there was “less than a 10 per cent chance” that the U.S. would attack Afghanistan.

A fierce Mullah Omar loyalist, Zaeef pours water on current efforts to separate “moderate” Taliban from hardliners and says trying to make such distinctions is “useless and reckless”. Even back then, he writes, days after the war in Afghanistan started, the ISI approached him with the proposal that he should assist in separating the “fundamentalists” from the moderates. He was encouraged to rebel against Mullah Omar and take up the leadership of the moderate Taliban. But he knew the real intention behind this plan was to split and weaken the Taliban.

He writes that the same intentions inform the present efforts. “[The Obama administration and President Hamid Karzai] think that the Taliban exist for the sake of money or power, [and] so logically it would seem that they can be destroyed with money and power, [but] in reality, the Taliban movement is one based on Islamic ideology, struggling for holy jihad under the principle of itta'at or obedience,

and samar or listening, as well as that of dialogue.” Afghanistan has never been subjugated by invaders, he asserts.

Zaeef, who leads a quiet life in Kabul after his release from Guantanamo, is not optimistic about peace returning to Afghansitan. He is emphatic that a solution can be found only through Islam. “The only way to find a solution... is to respect Islamic values... The political vacuum that has ensnared our nation must be filled. Islam can guide us.”

He is bitter that Pakistan turned him over to the Americans, despite his having diplomatic accreditation. There is a graphic description about the time he spent in Guantanamo as “Prisoner 306”. He is also angry about the ISI's, and more generally Pakistan's, efforts to control the Taliban government. Evidently, he seems to have conveniently forgotten how the ISI had helped the movement, financially and in every other way, to get to Kabul. He accuses Pakistan of spoiling the Taliban's relations with the U.S., and says, that while in Islamabad, he tried to get across the message that diplomats of Western countries should meet directly with him instead of approaching the Pakistan Foreign Ministry to set up appointments.

Humour

Zaeef says the destruction of the Bamiyan Buddhas was “unnecessary” and a “case of bad timing”. Even in those “tiresome” times, he showed a sense of humour, something not usually associated with the Taliban. When the Japanese Ambassador in Islamabad met him about saving the Buddhas, he told Zaeef that Afghans had been the founding fathers of Buddhism and that the Japanese were only following in their footsteps. As such, he pleaded that the Afghans must do everything to preserve Buddhist monuments.

Zaeef says he told the envoy, “half-joking”, that it was interesting to hear that Afghans were considered the founding fathers of Buddhism and, now that they had seen the light of Islam, perhaps the Japanese should consider following their lead once again.

The book, originally written in Pashto, was translated by a multi-member team, and painstakingly edited by Kandahar-based Alex Strick van Linschoten and Felix Kuehn, who are the founders of AfghanWire, an agency dedicated to raising awareness of Afghan issues and opinions that are ignored by the international media. The detailed notes provided to each chapter fill the gaps in Zaeef’s narrative. For anyone with even half an interest in Afghanistan, this book is a must read.

CIVIL SERVICE

Surviving the storm

In the mid '90s, a committee within the Indian Administrative Service's UP Officer's Association decided that the image of their cadre had sunk low enough. They arranged for a secret ballot: members would vote on who among their number was the most corrupt. Near the top of the list, with the second highest number of votes, in fact, was Neera Yadav. She had shot to prominence as head of the Noida Development Authority; and on Tuesday she was sentenced to four years of rigorous imprisonment for abusing that position.

Ashok Chaturvedi, the head of the private sector company she had favoured, Flex Industries, was also handed down the same sentence. The Prevention of Corruption Act, under which Yadav and Chaturvedi were sentenced, is too rarely allowed to work. Even in this case, political interference got in the way till the courts directed a case be filed, in 2002. Even so, Mulayam Singh Yadav appointed her UP's chief secretary in 2005; and last year, she joined the BJP amidst fanfare. But politics is only half the story. The bigger story is in the fact that, as witnessed by the IAS officers voting for her in their straw poll, her peers in the services suspected what she was up to, and weren't able to stop it. Public opinion in India is in a dangerous place, one in which profession after profession finds itself vulnerable to scorn and marginalisation unless it holds itself up to the highest of scrutiny.

The civil services have been quiet witnesses to the slide in their profession's standing. That slide, earlier only a matter of perception, has now finally begun to show in convictions and sentencing. The many

members of the IAS whom this concerns can no longer be silent witnesses. They need to start thinking, and voicing aloud, their own suggestions. How can we fix our processes? How do we introduce greater redress and accountability into the system? Unless this discussion is visible to India's public, the civil services' reputation will not survive the coming storm.

CORRUPTION

Reducing Corruption to Twitter

Tavleen Singh

Let me begin by admitting that the word scam is getting on my nerves. It is now being used by those who always believe the worst of India and those who like to malign us in the forums of the world. Our ‘mega’ telecoms scam has made it to front pages everywhere and the consensus is that India is led by such a bunch of clowns that they handed out spectrum without knowing its full worth. This is only half true and the losses we supposedly incurred are based on a hypothetical calculation by the CAG, but this has not been reflected in the stories I have read in the Western press.

Another reason why the word scam is getting on my nerves is because almost nobody using it these days is serious about reducing corruption in India. All that is happening is a lot of blah, blah, blah that is going to get us nowhere. Since I share the views of the late C K Prahalad, that ‘a nation becomes less corrupt before it gets rich’, I take very seriously the reduction of this most vital of issues to a sort of scam circus.

Everyone is getting into the act from television anchors to big businessmen, supposedly high-minded politicians to ponderous political analysts and I fear that the end result is going to be zero. Shunya. This is because what we are not discussing at all are the changes that must be made for India to become less corrupt as a nation. It is easy to understand why politicians, no matter what their hue, would not be interested in serious measures to end corruption because they all want

their turn at the trough. But, we in the media need to be more vigilant about leaked information and there is no sign this is happening.

We need to be more critical of this nonsensical stalling of Parliament over the demand for a joint parliamentary committee. It is a terrific way to divert attention from the real issue, which is that the reason why corruption has reached such unimaginable proportions in recent years is because the licence raj has not yet been fully dismantled.

Had it been, there would be no room for the vast discretionary powers that politicians and high officials continue to enjoy in our 'liberalised' economy. Had the Indian economy been truly liberalised, these discretionary powers would have been replaced by clear rules and regulations and there would have been real competition among big businessmen instead of the cronyism that remains at the core of the scams that currently hold our attention.

We are lucky that because there was a feeble sort of private sector in existence, despite decades of Nehruvian socialism, we did not end up facing what Russia did after the collapse of the Soviet Union. Our high officials could have ended up as oligarchs, as happened in Russia, but because there were real industrialists around, it was they who saw the opportunities that came after the economic reforms began and grabbed them. What our high officials ensured was that they did not give everything away for free and they ensured this by deliberate obfuscation in areas of policy. The most important thing that Niira Radia's taped telephone conversations reveal is how much influence peddling is still possible and if this is possible, it must mean that the licence raj continues to exist.

This is not just in the aptly named ATM ministries, but even in such supposedly unprofitable ministries like education and health. Licences to set up schools and colleges have been so liberally distributed to politicians, that it is hard to find a major political leader these days who is not running some educational institution. The Health Ministry offers its own possibilities for profit and patronage and remains unreformed, despite everyone being fully aware that the main cause of rural debt is sickness. The real scam in India is that despite vast amounts of taxpayers money being spent on public healthcare and education, any Indian who can afford it, uses private schools and hospitals. Our appalling public services disable India and prevent millions of our citizens from benefiting from an economy that is today acknowledged as growing second fastest in the world. That is our real scam and we have not even begun to discuss it.

So if we are really interested in reducing corruption at high levels of government, what we must all demand, in loud voices, is a reduction in the discretionary powers that high officials enjoy. We need transparent and clear rules that would guarantee that nobody setting up an airline or a cell phone company can influence policy changes or reduce competition. This is what we should be talking about instead of twittering on and on about scams in this silly way.

Follow Tavleen Singh on Twitter @ tavleen_singh

India breeds corruption

Joginder Singh

There are any number of rules and laws to prevent corruption but these are followed in the breach because there's profit in that. The result is obvious

Last week on December 9 we observed the United Nations-designated 'International Anti-Corruption Day'. Unfortunately, corruption has become the reigning deity in India. There are temples raised to all kinds of gods and goddesses — some well-known, some obscure. But corruption, which is worshipped by most politicians and a large number of bureaucrats, is officially unacknowledged as one. With mounting political corruption, bureaucrats are now expected to anticipate both overt and covert wishes of their bosses and accordingly prepare notes for orders. If they do not follow the implied and unspoken wishes of their political masters, they are sidelined and given jobs where there's no work to do.

When an incident of corruption comes to light, instead of taking action the standard ploy is to set up an inquiry committee or commission although in reality everybody knows the facts. Sometimes these are known months, if not years, before a scam becomes public. This is especially applicable to scams like those involving the preparations for and organisation of the Commonwealth Games, the land grab by Adarsh Cooperative Housing Society and the 2G Spectrum loot. If 'Halls of Shame' were to be set up in New Delhi and our State capitals, they would probably be the biggest buildings in these cities.

A study authored by Dev Kar, a leading economist and a former official of the International Monetary Fund, on the flight of illicit money from the country — perhaps the first ever attempt at shedding light on a subject steeped in secrecy — concludes that India has been drained of \$462 billion or over Rs 20 lakh crore between 1948 and 2008. The amount is nearly 40 per cent of India's gross domestic product and nearly 12 times the size of the estimated loss to the Government because of the 2G Spectrum scam.

Mr Dev Kar is now with the US-based Global Financial Integrity, a non-profit research body that has long crusaded against illegal capital flight. According to his observations, illicit financial outflow from India has been growing at 11.5 per cent per year and nearly 50 per cent of the total illegal outflows occurred since 1991. Around a third of the money exited the country between 2000 and 2008.

With the days of single party rule over, Union Governments now survive on the support of coalition partners. A new term has been coined called '*coalition dharma*', which means that the portfolios given to coalition partners literally become their fiefdoms, almost independent empires. It is more so if the allies have enough MPs to bring down the Government. Yet, it should not have been so. The party leading the coalition is expected to stand by good governance instead of being blackmailed by allies simply for the sake of staying in power.

If the CAG is to be believed, the Government has suffered a loss of Rs 1.76 lakh crore in the auction of 2G Spectrum in 2008. When petrol is not being sold at 2008 prices today, why was spectrum sold at 2001 prices in 2008? On November 2, 2007, the Prime Minister wrote to Mr A Raja that in the backdrop of inadequate spectrum and unprecedented number of applications for licenses', there should be a fair and transparent auction. He also pointed out that the revision of the entry fee, which was benchmarked on an old figure, needed to be considered.

On November 5, 2007, S Tel wrote to the Prime Minister and the Telecom Minister, offering Rs 6,000 crore for a pan-India licence. On December 27, 2007, S Tel enhanced the offer to Rs 13,752 crore and further agreed to increase the bid price in the event of a counter-bid. If S Tel's offer had been considered, the exchequer would have got Rs 65,909 crore.

So what was the motivation behind selling spectrum benchmarked on an old figure? Whether it was love for money or done in good faith is anybody's guess. Raiding the former Telecom Minister's house and subjecting his close associates to an inquiry by the CBI after two years of the 2G Spectrum scam is unlikely to serve any purpose. It's more of eyewash than a genuine effort to get to the bottom of the scandal and pin responsibility.

Rules and laws do exist. But most people who are supposed to enforce them do not do so as there's profit in that. How else do you explain the death of 70 people and injuries to another 300 in a building collapse in the national capital? That the building had been illegally constructed with poor material was known to civic authorities. Nor did the Delhi Government do anything to enforce the law which would have prevented the disaster and saved these lives.

To cover up its lapses, the Delhi Government has appointed a one-member judicial commission of inquiry to probe the disaster "in view of the scale of the mishap, the large number of casualties and the number of complex issues connected with the incident". This is an executive function; outsourcing the work to commissions and committees has become a standard ploy to calm popular outrage which eventually dies a natural death, only to surface all over again when another similar disaster takes place.

The job of the commission of inquiry set up by the Delhi Government will be to probe all aspects of the incident, including whether there was

any procedural, administrative and statutory lapses that led to the tragedy. That's a joke. Those heading such commissions are neither investigators nor do they have any legal power to punish anybody. They ask for affidavits to be filed and then use these to prepare their reports. Surely the Government does not need a commission of inquiry to find out whether the construction of this particular building was approved or not by the agencies concerned and whether the structure was sound enough to take the load of so many floors. The whole purpose is to deflect discomfiting questions by saying that the matter is being investigated.

A simple point will show how serious our politicians are about inquiring into scams and scandals. Till date no party has agreed to confer constitutional status, like that of the CAG or Election Commission, on the CBI. Under the present system, cases have to be referred to the CBI and then Government sanction is required to prosecute individuals for violating the law. Thus, the CBI has no independent powers of its own.

Corruption flourishes in our country because Government lacks the political will to fight corruption. All talk of zero tolerance towards corruption is meaningless unless there is appropriate follow-up action. Politicians know this well.

DISASTER MANAGEMENT

Civil defence to play greater role in disaster management

Alok Mishra

[National Disaster Management Authority](#) (NDMA) member Jyoti Kumar Sinha on Sunday said that the NDMA had decided to revamp [civil defence](#) across the country, including Bihar, with a view to ensuring their better and effective role in disaster management. Sinha is a retired IPS officer of Bihar cadre (1969 batch).

Addressing a meeting organized by Prof G P Sinha Centre for Disaster Management and Rural Development to discuss vulnerability and preparedness in Bihar, Sinha said that civil defence had over the period become ineffective as they were supposed to come into the picture in war times only.

"It is now proposed to strengthen civil defence in every district where eight trainers would be provided on the basis of vulnerability of the particular area," he said, adding that in the first phase, as many as 241 districts have been identified and work in 100 districts has already begun.

He said that more stress should be laid on community-level participation as they were the first and last responder in the event of any disaster as others come and go for a brief period. Sinha said that soon large scale sensitization programme would be launched and one such programme for Patna district administration is on the card. Ten percent of calamity relief fund could be spent on training and purchasing equipment as pre-disaster preparedness, he added.

In his speech, director, [CIRDAP](#), Dhaka, Dr S K Sinha said that the

entire world is looking towards [Bangladesh](#) where the community has been well-oiled to meet any disaster and results showed that the number of deaths in such situation had drastically come down. This is being added with score of livelihood programmes for sustainability of the society, he added.

The meeting was attended by experts on disaster management and rural development, besides bureaucrats and engineers, who held discussion on different aspects of disaster and response in such cases.

Those who attended the meeting included Ashim Chakrovarty, Jai Shankar Tiwari, Col.(retired) R K Singh and Captain S S Singh.

Earlier, Prof S M Raza urged every section of the society to help the state in fighting floods. Director, Prof G P Sinha Centre for Disaster Management and Rural Development, Dr Rajan Sinha also addressed the meeting.

ECONOMIC DEVELOPMENT

Food for thought

Bibek Debroy

The mid-year analysis of the economy for 2010-11 has just been published by the finance ministry. Headline numbers are generally about growth and inflation. Both Q1 and Q2 had real GDP growth of 8.9%, so growth this year might even touch 9%. However, let us focus on inflation and let us quote from the analysis, with the caveat that government language is at best obtuse. “Inflation remained high in the current fiscal but is now coming down. The headline inflation, as measured by the wholesale price index (WPI) (new series with base 2004-05=100 has been introduced from August 2010 with wider coverage), shot up in November 2009 and continued at elevated levels in the current fiscal. After reaching a peak level of 11.0% in April 2010, it started to decelerate and is placed at 8.6% in October 2010. Higher food prices, caused in part by domestic drought conditions last year and higher global food prices, have been driving inflation. The sharper rise in headline WPI inflation in the current fiscal is also due to the rise in food items, together with a rise in the fuel power, light and lubricants group and base effect (inflation was negative or moderate in the first half of 2009-10); whereas inflation in terms of consumer price

indices (CPIs) has remained high on account of larger weights for food but has been less volatile.”

Thus, inflation is coming down. This is quite different from an assertion that prices are coming down. Inflation is rate at which prices change. If inflation is down from 11% to 8.6%, this simply means that prices are growing at 8.6%, not at 11%. This is an obvious distinction, but not one that popular perception always cares to make.

Deceleration doesn't mean we have switched to driving in reverse gear. To make sense of what is happening to prices in the aggregate, as opposed to individual prices of potatoes and onions, we need an index and there are two sets. These differ in baskets of commodities included, their weights, sources from which price data are collected and method of aggregation. There is the wholesale price index (WPI), with a new basket from August 2010. This was never meant to capture impact of inflation on consumers. It is used as an indicator of input costs. Consequently, food articles have a 14.34% weight in WPI. Inflation can be food or non-food and consumer perceptions are often based on what is happening to food. Consequently, there is a mismatch between what WPI tells us and what we think is true. This is unfair, as WPI is not meant for this.

Instead, we have two consumer price indices—CPI (urban) and CPI (rural). Pedantically, we have a CPI(IW) for industrial workers, the one for urban non-manual employees having been discontinued and CPI(IW) is effectively CPI(urban). Similarly, there is a CPI(AL) for agricultural labourers and a CPI(RL) for rural labourers, but these have effectively been merged to become CPI(rural). The short point is that food has a weight of around 45% in CPI(urban) and around 65% in CPI(rural). If it is food inflation we are concerned with, we should focus on CPI, not WPI. Having said this, what is this business in the quote about a “base effect”? Inflation is with respect to a base, say one year ago. So the quote is arguing that in the first half of 2010-11, we faced high inflation because inflation was low in the first half of 2009-10. Logic has to be consistent. Therefore, by the same token, since inflation was high in the second half of 2009-10, by the same base effect, it will be low in the second half of 2010-11.

Stated differently, a large chunk of deceleration in inflation is statistical. It has nothing to do with government policy.

The mid-year analysis understandably takes credit. “The deceleration in inflation could be attributed to the slew of policy measures taken to control prices, such as a selective ban on exports and futures trading in foodgrains; zero import duty on select items and permits to import pulses and sugar by public-sector undertakings; distribution of imported pulses and edible oils through the PDS; and release of higher quota of non-levy sugar. The Reserve Bank of India (RBI) has gradually withdrawn from the accommodative monetary policy stance to douse inflationary expectations and pressures.”

Let us take these one at a time. Although this quote doesn't directly mention food inflation, does monetary policy have anything to do with this type of inflation? Distribution through PDS has assorted problems. But in any event, it is meant for sections of society (BPL) who are subsidised. It doesn't address the food inflation problem for society in general. Pulses and sugar have specific characteristics. These apart, the first quote mentioned higher global food prices for agro products. There are trends that have driven those increases and they aren't going to disappear. Also, in general (barring a few items), Indian agro prices are lower than global prices. So how does import policy help? How does future trading contribute to increasing prices? Implemented properly, it should cushion volatility.

The increase in WPI is attributed to an increase in the costs of fuel power, light and lubricants. Does that not contribute to increased input costs for agriculture? Does it not contribute to increased transportation costs? The mid-year analysis also says, “The MSPs for all major crops

have been raised. The increase is particularly large for pulses in order to encourage higher investment and production, especially in the light of last year's decline in production." We will come to the supply-side in a moment. But doesn't an increase in MSP contribute to an increase in food prices? Surely higher prices to farmers will lead to higher prices for consumers. That's plain logic.

Government reports aren't always expected to be coherent. What is the key problem? There has been an increase in demand—urbanisation, changing consumption patterns, more rural demand leading to less availability for urban areas, food processing. Input costs have increased—power, wages, transportation. Supply has been stagnant—productivity increases have tapered off in former high-yielding areas, agricultural land is being diverted to other uses. Rural reforms would have improved supplies and productivity, but they have not been implemented. Therefore, there is a supply-demand mismatch and this is a medium-term problem. Drought and speculation may have reinforced this, but that was temporary and it is only this that has been eased. The medium-term problem remains. To quote from the mid-year analysis again, "Thereafter, in August 2010, inflation in terms of all price indices has come down to single digits. This has happened after 15 months and this trend is expected to continue." Food price inflation may decline from double-digit levels. But single-digit levels (say 6-7%) of food price inflation are here to stay, until those rural and agro reforms are introduced. The tragedy is that with those reforms, India can not only feed double the present Indian population, it can become a major exporter too. Till then, there is no reason for retail prices to decline. Subsidising the poor is only a subset of the general problem.

The writer is a noted economist

ENVIRONMENT

Business takes the lead on fighting climate change

Oleg Deripaska

It is easy to be disheartened by the failure at Cancun to take major steps towards an international agreement on fighting climate change. Despite apparent broad consensus on the threat that global warming poses and the need for urgent action, short-term national interest is still being put before the long-term collective good.

Fortunately, business leaders across the globe are not waiting to act. And, cooperation on the regional level such as that between Russia and China demonstrates there is will to combat climate change.

At the talks, national governments, for various reasons, are resisting the concessions needed to break the log-jam. Regional blocs appear more interested at apportioning blame than finding solutions. International organizations, however well-intentioned, seem so far unable to bridge the divides.

But away from the international arena, there is reason for optimism. Businesses are not waiting for global agreement to reduce energy consumption. The need to cut costs, as well as to help safeguard the environment, is making energy conservation a major priority for companies in Russia and around the world.

At home, national governments the world over are re-examining their sources of energy and generation capacity. Renewable energy is also attracting Government support. The US is spending \$66 billion, as part of its overall stimulus package, to develop and harness alternative fuel sources. The EU wants to generate 20% of its power renewably by 2020.

China has passed a \$47 billion green energy bill and is using subsidies and other financial tools to boost investment in wind and solar power.

And, as the world's largest producer of greenhouse gases, enabling China to continue developing its economy without a huge increase in carbon emissions is critical to tackling climate change. Even if its per capita levels are still way below American levels, China has now overtaken the US as the world's largest greenhouse gas emitter.

But here, too, there is reason for optimism. China is very much aware of the challenge and has promised & as part of its attempt to kick start the post-Kyoto talks - to reduce emissions per GDP unit by as much as 45% by 2020.

To deliver these cuts, China is overhauling and replacing older coal-fired stations and is a leader in carbon-capture technology. And, China is ahead of the global trend in renewed attention to nuclear power - a reliable, clean and safe source of energy; building more nuclear power stations within the country than the rest of the world combined. This kind of interest and investment in nuclear power must be at the heart of reducing our reliance on fossil fuels.

But of all the sources of clean energy, it is hydro-electricity, a mature technology, which holds the greatest promise. Already, hydroelectric output was the world's most rapidly-growing major fuel in 2009. With major projects like the

Three Gorges Dam in place, China generates over 16% of its electricity from hydropower. But this has to be increased sharply to meet its emissions target while driving economic growth. So, along with speeding up new hydropower projects within the country, China is looking across its border to Russia to help meet its need for clean energy.

Russia has among the greatest untapped hydropower resources in the world. Even better for China, the greatest potential for growth is in Siberia and Far East Russia, close to the Asian markets.

Electricity generated by hydropower is also ideally suited to meeting the big fluctuation in demand between on and off peak times. Hydropower can be brought online in minutes, avoiding the need to keep coal power stations producing surplus energy and emissions 24 hours a day.

This explains why the Russian and Chinese Governments have such big ambitions for energy cooperation. Energy exports from Russia to China are now expected to increase 60-fold over this decade. To help transfer the power efficiently, China is investing the equivalent of \$250 bn in improving its national grid.

And, with prices being up to three times higher in China than across the border in Russia, a compelling business case for both countries to cooperate is clear. The ongoing debate in China on the introduction of an internal carbon price will only make Russian hydro even more attractive.

But, while our Governments can set bold targets, it is businesses that will deliver. The recent agreement between EuroSibEnergo, part of the EN+ Group, and China Yangtze Power Co, the country's largest listed hydropower corporation, to develop hydro-electricity projects in Russia demonstrates the progress already underway. This is by no means the only example of large-scale cross border cooperation. The EU is considering super-grids to enable the continent to benefit from solar power generated in North Africa. Norway and Denmark are collaborating on the interchange of hydroelectric, thermal and wind power to lower cost of electricity production. And, there are plans for Mongolian wind energy to be transmitted to South Korea and Japan. This is just the kind of activity that should help lift the gloom from Cancun.

We must keep pressing for a global climate change agreement. But progress on the ground, fortunately, is running ahead of international talks.

(Oleg Deripaska is the CEO of the EN+ Group, a Russia-based mining, metals and energy group, and a member of the WEF Low Carbon Prosperity Task Force. Views expressed are personal).

JUDICIARY

Misdirected missiles

GOPAL JAIN

Imagining India is a nightmare ... corruption, scams, policy flip-flops, violation of legal rights, lack of respect for institutions (CVC) and now judicial verdicts. This India fits the description of a 'banana republic'—nothing is a given, nothing is final, the rule of law is like elastic; it is stretched to suit the political expediency and compulsions of a coalition government.

The latest in the list is the filing of a curative petition in the Supreme Court to reopen the Bhopal Gas Leak compensation case. The trigger point, after 20 years, was the inadequate punishment in a criminal case! Before firing a salvo/ missile, one must identify the real target and send it in that direction; but here is a case of a misdirected missile.

Shift the blame while sacrificing those who can be made easy scapegoats and guinea pigs (those who are politically expendable) and mete out punishment so it appears that action has been taken. But the rule of law requires a prior adjudication, a determination that gives the benefit of the doubt—innocent till proven guilty. This has been given a go-bye. This is evident from precedent. There was Bofors—a JPC white-washed it and gave it a clean chit. Nothing was done to recover the money that caused a loss to the exchequer; there was Tehelka—those who dared to expose the systems and scandals and blow the whistle were crucified but the distortions/loopholes were not fixed. Then comes the 2G scam, where governments went into deep slumber and suddenly the CBI raids Raja as if expecting to find 'spectrum' in his house. This is an eye-wash. And then there is Bhopal, where the government had a constitutional duty to look after its people, provide relief and rehabilitation, but failed miserably.

Filing the curative petition is a facet of ‘strong arm tactics’ and has to be seen in its correct perspective and context. Let’s look at the facts that emerge from the record:

- 1) The Government of India and Union Carbide Corporation (UCC) enter into a settlement in February 1989.
- 2) The settlement was filed in court and the Supreme Court recorded the terms of settlement by two separate orders dated February 14 and 15, 1989, based on the settlement [Union Carbide Corporation vs Union of India (1989) 1 SCC 674]. The settlement clearly provides that it finally disposes of all past, present and future claims, causes of action and civil and criminal proceedings, with respect to all past, present and future deaths, personal injuries, health effects, compensation, losses, damages and civil and criminal complaints of any nature whatsoever against UCC, Union Carbide India Ltd (UCIL), Union Carbide Eastern, and all of their subsidiaries and affiliates.
- 3) An attempt was made to re-open this settlement, which was rejected by the Supreme Court in 1991. However, the Supreme Court left the settlement and the orders undisturbed, holding that if the settlement fund is exhausted, the reasonable way to settle claims would be for the Union of India, as a welfare state, to make good the deficiency [Union Carbide Corporation vs Union of India (1991) 4 SCC 584].
- 4) Another attempt was made to re-open the settlement (on the grounds that compensation was inadequate). This was yet again rejected by the Supreme Court in 2007.
- 5) The Bhopal incident happened in 1984. The operator of the plant was UCIL. Its legal successor was Mcleod Russel, which has been renamed as Eveready Industries India Ltd. This company is fully alive and solvent even today. So far, so good. The government found none of this actionable, even though protesters and victims have been crying hoarse. Now drag in Dow Chemicals, which is nowhere on the scene and had no

link or connection to the incident. A reverse merger took place in 2001 between a subsidiary of Dow and UCC, 17 years later—at a time when UCC was no longer doing business in India, resulting in shares of UCC (the surviving entity) being transferred to the Dow Chemical Company. The real culprit (now called Eveready India Ltd) remains a separate and distinct entity, which again has no link with Dow.

6) The government (EGoM) takes the view that the ministry of chemicals & fertilisers and CBI may be directed to file appropriate motions before the courts concerned and request the courts, specifically the MP High Court, to expeditiously decide the question of liability of Dow Chemicals Company or its successors to UCC/UCIL. Once this question is decided, various legal proceedings involving Dow and others liable can be taken forward. The government makes an application, which is pending. But without awaiting the verdict of the court, the government jumps the gun and, in a pre-determined manner, makes Dow a party and lodges its claim in the Supreme Court without establishing Dow's role and link, as none exists. It appears that the curative petition would amount to contempt of court.

Clearly, the government is shifting the blame and onus, though it has to foot the tab. The whole case is misconceived. Only the objective of sending a political signal is achieved—'we are on the job!'

This is the report card that shows a faulty approach, one which would fall in the category of 'rarest of the rare'. The government cannot re-open a case that is settled, i.e., it cannot be unsettled. In doing so, it will be using/abusing the legal process for serving a political end.

So what is the way ahead? How do we 'cure' this? India is seen as a mature democracy, growing economy and a haven for private/foreign investment. Investors come where there is certainty, minimum risk and their rights are secured. This means the integrity and sanctity of contracts/promises have to be adhered to; the government, as a

sovereign, must fulfil its commitments; judicial verdict must be complied with in letter and spirit.

The government, having agreed to a settlement, is bound by it. It has given its word in a written document, received money by way of compensation and now cannot post facto wriggle out of it. If it takes the view that the compensation was not sufficient, it is obliged to pay out the balance as it has committed to do as a welfare state.

In the end, the government is duty bound to be just and fair. It cannot target companies or institutions but must target the real problems, the real issues and, in doing so, must reach out to the real people to provide prompt relief and rehabilitation and put them out of their misery and suffering. India will then truly be a 'shining India'.

In doing so, we need a complete overhaul and a 180-degree turn in the government's stand and approach as it plays out a political game in the legal arena. The 'climate' must change (and not at Cancun) to re-imagine India as the India that Gandhi-Nehru-Ambedkar foresaw. Namely, an India with obedience to the rule of law. It is the beginning of yet another struggle.

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POLITICS AND GOVERNMENT

Back to housekeeping

Sitaram Yechury

As we stood at attention to the national song signalling the sine die closure of this winter session of Parliament, the enormity of damage that a completely wasted session has caused our democracy hung like a dark cloud. The Prime Minister, on a (by now common place) foreign visit during the Parliament session, echoed such concern by saying in Germany: “I am worried about the future of the parliamentary system (in our country)”. Such concern, however, completely contradicts the obduracy of the government in refusing to constitute a Joint Parliamentary Committee (JPC) to go into the 2G spectrum scam, which by all counts, is the biggest corruption scandal in independent India.

The French philosopher Charles de Montesquieu had laid down the necessity of a concept of checks and balances in constitutional governance by drawing attention to the dangers inherent in the concentration of legislative, executive and judicial powers in one authority. All modern democracies drew on this to define and demarcate these three wings and establish norms for their inter-relationships to play a joint and participatory role. While doing so, our Constitution defines the centrality of the will of the people. The preamble defines this eloquently: “We, the people of India... do hereby adopt, enact and give to ourselves this Constitution.”

The executive (government) and the legislature (Parliament) are vested with the responsibility under the Constitution to manage public affairs while being accountable to the people. Accountability, in fact, differentiates democracy from other systems of governance. The legislature, apart from exercising its authority to make laws and draw the attention of the government on matters of public importance, is vested with the responsibility of ensuring executive accountability through

effective legislative scrutiny. The centrality of the sovereignty of the people in our Constitution is, thus, established by the executive being accountable to the legislature which, in turn, is accountable to the people.

When Parliament ceases to function due to disruptions, the government of the day escapes from being accountable. While this may be convenient and comfortable for the government, this grievously undermines the foundations of our constitutional scheme of things. This is precisely what is happening with the government's obstinate refusal to constitute a JPC to investigate this 'mother of all scams'.

It is being argued that the 2G spectrum scam is being investigated by various other agencies, including Parliament's Public Accounts Committee (PAC). Now, the PAC, by definition, is an accounts committee and will, surely, examine the report of the comptroller and auditor general (CAG). The other investigative agencies will, surely, pursue the case to identify those guilty of corruption.

This 2G scam, however, goes much beyond the issue of mere graft. This scam involves a massive manipulation of our system that permits such a colossal loot to take place. Further, this scam has also exposed a very deep unholy nexus between unscrupulous sections of politics, business, bureaucracy and the media.

These avenues for the manipulation of our system need to be plugged to ensure such scams don't recur. This can be done only on the basis of a thorough holistic investigation that can result in the recommendation of new regulations or new laws, if necessary. In our constitutional scheme of things, it is Parliament alone that can enact laws. Hence, it is only a JPC that will have this authority. Given this, the government's obduracy on this score is utterly incomprehensible. In the past, JPCs have been constituted to investigate scams of much smaller dimensions.

It is further argued that since the Supreme Court is seized of the matter, there is no need for a JPC. Quite the contrary. The apex court last week observed that “the issue raised in the case (2G spectrum scam) is not only limited to the R1.76 lakh crore but has a much wider compass. We would not like to prejudice the probe. But what happened in 2001 needs to be looked into.” In 2001, the Vajpayee government adopted the 'first come, first served' policy. Regarding the policy of transfer of dual technology — CDMA (Code Division Multiple Access) and GSM (Global System for Mobile communications) — the apex court observed that the CAG had not gone into this matter. In fact, the apex court went to the extent of suggesting the need for a special court in view of the magnitude of the offence as otherwise the objective of the Prevention of Corruption Act and the Foreign Exchange Management Act cannot be achieved.

It is precisely in view of the magnitude of the offence and the multi-dimensional aspects of the scam that the constitution of a JPC becomes imperative. Some ask: Do you not have any faith in the judiciary? Of course, we do. We are proud of the independent and impartial judiciary created by our Constitution as an interpreter of law and custodian of the rights of the citizens through the process of judicial review. However, we must recollect what Jawaharlal Nehru said in the constituent assembly: “No Supreme Court and no judiciary can stand in judgement over the sovereign will of Parliament representing the will of the entire community. If we go wrong here and there, it can point it out, but in the ultimate analysis, where the future of the community is concerned, no judiciary can come in the way... ultimately the fact remains that the legislature must be supreme and must not be interfered with by the court of law in measures of social reform.”

In the interest of our democracy, the legislature must be allowed to discharge its constitutional role. During the two months before the Budget session, the government must take the initiative in breaking this logjam.

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The views expressed by the author are personal.*

Bihar shows the way

The NDA's landslide victory in the Bihar assembly elections would predictably have given Chief Minister Nitish Kumar a long honeymoon. But even with the weight of that victory, it takes a brave person to hack away at the powers of the very legislature class that underwrites his massive majority. In a show of the change that can be, the Bihar cabinet has in principle decided to abolish the Local Area Development Scheme for MLAs and MLCs (members of the upper house) to execute capital works in their constituencies.

To get a sense of the extraordinary initiative taken by Nitish, consider the genesis of the scheme in the early '90s, as a brainwave by P.V. Narasimha Rao to give then Lok Sabha members a stake in incumbency, with huge funds suddenly put at their disposal for projects. Since then, the scheme has been replicated not just in state assemblies, but even in municipal bodies. In fact, last year, there was unanimity in the Lok Sabha Standing Committee on MPLADs that the annual budget for each MP be raised five-fold to Rs 10 crore. It is, therefore, a measure of the gauntlet thrown down by Nitish that even Lalu Prasad's RJD has offered "full backing" for the radical reform. So far, stakeholders had insulated the local area development scheme from challenge — especially after the Supreme Court refused to abolish it. What Nitish has done is to make the political argument against the scheme, and dent a daunting consensus. He has cut through the hypocrisy surrounding the scheme and, more impressively, he has done so by curbing the power of incumbents.

It's reported that the Bihar reform is aimed at eliminating kickbacks in the allocation of contracts. Yet the scheme is bad not just in execution and oversight mechanisms but also in conception. It blurs the separation of powers between legislature and executive. Elected representatives are meant to keep a vigil on the executive and the local administration, not to become stakeholders in selected, and often arbitrarily conceptualised, projects of their choosing. Therefore, Nitish Kumar should go the last mile and resist the discontent building up, with legislators demanding at least a say in recommending capital works of a certain value. In fact, with their state having wrested the high ground on a reform even the

Administrative Reforms Commission and the all-powerful National Advisory Council could not pull off, Bihar's MPs should take a similar proposal to Parliament.

RIGHT TO INFORMATION

A new brief

Good things should not be curbed. Certainly not a legislation to which so much is owed by so many. The Right to Information Act is a fundamental democratic achievement for India, one that took a long time in coming for a proclaimed democratic state. And when it did, the system became more transparent, if not cleaner. Ordinary citizens, urban and rural, with little or no ability to negotiate their way through bureaucratic information labyrinths — whether something that affects them personally or some policy matter or law — could make use of the RTI Act, to either put relevant information in the public domain or act on it or both. A brief recollection brings to mind illegal mining in Karnataka, allegations of corruption in the Commonwealth Games, or even something as recent as the Adarsh Society scam. The power and necessity of the RTI Act was common knowledge, akin to the UK's Freedom of Information Act 2000.

Certainly, the RTI can do with streamlining to enable the law to serve citizens better. Any empowerment of citizens to exercise vigilance and demand systemic accountability has to be balanced against unnecessary or frivolous citizen activism, as taxpayers' money and the state's time are taxed in the process. However, can the department of personnel and training's proposal to introduce radical restrictions on RTI applications be welcomed with enthusiasm? Unfortunately not. Limiting a single RTI application to a single subject may be open to debate. But the 250-word cap that the DoPT proposes for a single query sounds like a gag order

that could compromise the efficacy and hitherto success of the landmark legislation.

This ridiculous appeal to, or constraint of, brevity is too arbitrary. Where RTI applications are filed by citizens of vastly differing degrees of literacy and financial solvency across the expanse of this vast country, the 250-word cap and the limitation to a single topic can all add up to derailing a still new and immensely empowering law that's been operating more or less without a hitch. The government needs to reconsider not the need to smoothen the RTI Act but the particulars of this proposal.