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BOOK REVIEW

THE RIDDLE OF THE SHELVES

BOOK WISE



What makes a best-seller in India? That is, quite literally, the big question that has long occupied the minds of writers, agents and publishers. There are many who claim to have the answer, but with the rapid advances in print and communications technology leading to a vast expansion and diversification of

media and entertainment outlets, the old criterion of the number of copies sold is not sufficient to define a best-seller.

Should rights like translations, television/film rights and digitalization of editions also be included in a proper definition of a best-seller today? Should the totality of the market and its various segments be included in the final reckoning to optimize the sales potential of a book because publishers are no longer interested only in the print editions?

But first, the traditional definition of a best-seller. A best-seller is a book which sells more copies than other books. That difference, although an obvious one, is the single most important point to bear in mind. It is the yardstick by which wholesalers or the big book-sellers define a best-seller. People must want to buy it; not just a few but lots of people, which means that the book must have broad appeal. For instance, a book on the mating habits of jungle fowls may be well-written and researched but it will appeal only to a

limited market. What this means is that most best-sellers fall in the fiction category. How can we tell a book has what it takes? Does it have all the qualities that are common to most best-selling novels, which make us want to buy them and thereafter spread the word around?

These qualities, which have been spelled out in any number of *How to Write books*, are as follows:

Plot: A good story is one that is interesting, possibly exciting, and, above all, pleasurable from beginning to end. There should be an element of uncertainty or unanswered questions built into the text that would keep the reader turning the pages to find the answers.

Believability: One-dimensional characters who do not come to life on the page will not make a best-seller; we all have multiple identities and this must be reflected in the story. There must be characters the reader comes to know and either love, hate, laugh or empathize with.

Accessibility: A book that will be read by a large number of people must be written in a language that is easily understood. For the Indian market, this is perhaps the most important factor because of the falling standards of language.

Ease of reading: A book, it is now said, is just a subdivision of the entertainment industry. ‘Simplicity, clarity, purity of style’ are the guiding principles and they come from being true to your natural style.

Description and subtlety: Describe events and emotions rather than stating bald facts that can become tedious after a bit. It is more important to show readers what is happening than to tell them the obvious.

Title: An eye-catching, imaginative title is helpful in attracting the initial interest of an agent or publisher. On publication, the title is important in making the browser pick up the book.

But the six-point formula may not be quite enough. You would still need that little spark to make it tick. Some call it luck, some, having the right book in the market at the right time and some, having all the four Ps: ‘practice, perseverance, passion and patience’. Selling the print edition is just one half of the battle; the more important part is selling the various rights that are rapidly becoming more lucrative than the traditional book. But this is a complicated world that has to be negotiated by literary agents and other professionals — authors and publishers can seldom do it on their own.

RAVI VYAS

CONSUMER PROTECTION

The doctors and the Consumer Protection Act

Gurinderjit Singh

INDIAN medical tourism is the recent concept, which is emerging very fast mainly because of the better medical facilities here. In India, the waiting period is very little, as compared to the western countries, where appointment system keeps the patient longing for the procedures and operations for months together.

In the developed countries, this is mainly because of the 'safe' approach of the doctors, who do not want to take any 'risk'. The patients there are denied medical and surgical intervention, even when badly needed, simply because of the fear of litigation. The use of steroids is so dreaded that the patients are kept devoid of their benefit, even when they are absolutely indicated in various life-threatening conditions.

The things are changing fast in India too. Gone are the days when doctor used to be considered God here. The doctor-patient relationship got a U-turn, when the Consumer Protection Act was passed in 1986,

Recommendations

Parliament should reconsider the provisions of the Act in the interest of one and all and redefine "consumer" and "service" so that doctors and hospital authorities do not become subject to frivolous litigation. Aggrieved patients could file suits for compensation in civil courts under the law of torts, where they would have to pay court fees and thus will think twice before filing such cases. Even if it is assumed that the medical profession has become commercial, it still cannot be termed as a trade or commerce. So greater public interest will be served by letting it remain a profession and retain its nobility.

and it included medical services and made doctors accountable for any act of medical negligence, thereby making them vulnerable to be sued for compensation. However, the doctors and hospitals who render services without any charges whatsoever, are exempted and cannot be sued for compensation under this act.

The reasons why medical services had to be included under the Consumer Protection Act (CPA) are –

1. Increasing knowledge of one's rights as a patient.
2. Doctors and hospitals are no longer held in high esteem as they were held before.
3. No cost is involved if a complaint is filed in the District Forum or State/ National Commission under the CPA, since a patient can make out his case and argue it himself and
4. A complaint is decided within a short span of three to four months under the CPA, while it usually takes years in the civil and criminal courts.

And now let us discuss many good reasons why medical services should be excluded from the CPA —

1. Doctors will be restrained from giving their best out of fear of mishaps, unwanted litigation, huge compensation, claims, etc.
2. Doctors will not rely on their own clinical diagnosis, to reduce the risk of litigation, but will put patients through different tests – radiology, pathology, etc, which will cost a fortune to the patients.
3. There are certain specialist doctors who work in high-risk areas such as neurosurgery, trauma surgery or heart surgery and there they regularly have so many fatalities. Now they will think twice before working in these high-risk areas.

4. The learned members of the District Forum, State Commission or National Commission are likely to commit errors in their orders while granting compensation or award in the cases of hospitals, nursing homes or doctors due to lack of medical knowledge in general and with regard to instant decisions which are frequently taken by doctors during emergency treatment and at the time of operation in particular.

5. The application of the CPA on medical personnel will do more harm than good if the doctors resort to what is called defensive medicine. The patient who comes in with a headache of one day's duration may be advised three X-ray views of the head, to seek the opinion from an eye specialist, a CT scan and an MRI scan lest the doctor may miss a brain tumour.

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ECONOMIC DEVELOPMENT

High Demand, Short Supply

Ashok Malik

At its simplest level, liberalisation equals the removal of market distortions. Price or supply control by the government can create artificial scarcities and lead to irrational pricing either too high or so low and populist as to be unviable. In the long term, society and consumers inevitably pay the price.

Since the reforms of 1991, India has recognised the logic of liberalisation in business sectors as far apart as telecom and energy. Yet, it is unconscionable that such an approach is deliberately ignored when it comes to a compelling arena: school education. Policy neglect if not policy perversity is leading to a crying paucity of good private schools in India's biggest cities. Why does school education remain a shaming embodiment of India's shortage economy? There is massive demand; parents have paying capacity; entrepreneurs and service providers are ever willing to fill the gap. However, policy angularities and an over-bureaucratised regulatory system present an overwhelming obstacle. City authorities determine school fees, place ceilings on the size of schools, make it near impossible to change land use to open new schools. All this is happening even in Delhi, India's capital.

As per Delhi Development Authority (DDA) regulations, no new school (nursery-class XII) in the city can extend beyond four acres. That apart, land use norms meant to protect residential areas from encroachment by factories and commercial complexes are being misconstrued. State and city governments routinely use them to

prevent the setting up of schools in residential neighbourhoods even if they benefit rather than endanger the local community.

The crux of the issue is the state's encroachment upon the autonomy of private, unaided schools, and its cussed refusal to facilitate remunerative pricing of school education services. The fees issue is the thin end of the wedge. State governments use it to bully and tighten their influence on private schools. These schools are asked to get clearance, and frequently denied clearance, for a fee hike. The matter is painted in vulgar terms: so-called "elite" schools are accused of "profiteering", without any larger "social responsibility".

In its judgement in TMA Pai Foundation vs State of Karnataka (2002), an 11-member bench of the Supreme Court made a perceptive comment: "There is no compulsion on students to attend private schools. The rush for admission is occasioned by the standards maintained in such schools and recognition of the fact that state-run schools do not provide the same standards of education. The state says it has no funds to establish institutions at the same level of excellence as private schools. But by curtailing the income of such private schools, it disables those schools from affording the best facilities because of lack of funds."

How does this happen? Consider an ongoing controversy. Seventy-five per cent of the running expenses of a private school go towards staff salaries, human resource being critical to institutional quality and reputation. In 2008, the Sixth Central Pay Commission submitted its report to the government of India. As a consequence of its acceptance, in 2009 there was a knock-on revision of wages by state governments. As such, government schoolteachers in some states found their salaries going up by 60 per cent.

Obviously private schools were also obliged to increase their

salaries. There was both a market and a regulatory principle at work here. As per the Delhi School Education (DSE) Act, 1973, private schools cannot have a lower salary matrix than government schools. The DSE Act is a particularly draconian piece of legislation that requires private schools to seek prior permission for even routine administrative tasks.

Theoretically, the DSE Act is limited to Delhi. Even so, it has become the template being used by a variety of state governments to "fix" private schools. It is increasingly cited by authorities in states such as UP, Punjab, Haryana, Maharashtra and Assam.

In 2009, after the Pay Commission award and its cascading impact, private schools sought to raise fees. In Delhi, the state government allowed private schools to charge Rs 4,500 as a one-time fee and raise regular fees by up to Rs 500 a month. When it came to permission for the annual fee hike in April 2010, however, another controversy was triggered. The only school allowed to cross the Rs 500 barrier and take its fees further was Sanskriti School, run by the Central Civil Services Society!

In Mumbai, ministers and bureaucrats ran a media campaign against private schools and then appointed Kumud Bansal, former secretary in the Union human resource development ministry, as head of a committee to study the "Fee Structure for Un-Aided Schools". In October 2009, the Bansal panel submitted its report. Citing court judgements and case law, it recommended "private unaided schools should have the autonomy to fix the school fees". It also argued that a "reasonable surplus" of "up to 15 per cent of the total revenue" could be retained by the school for future investment, and that this would not amount to profiteering. Will Maharashtra accept the Bansal report? In nine months, the state government has not made up its mind. Meanwhile, schools and governments in Delhi and other

states are waiting for that big decision in Mumbai. It will set a precedent and leave its mark on the future and viability of private schools across India.

The writer is a political commentator

HINT OF NEW DANGERS

- Is global austerity the right medicine?

Bhaskar Dutta

The G20 leaders have just concluded their summit meeting in Toronto. The meeting came at a time when controversies about appropriate global economic policies have surfaced all over again. On one side of the Atlantic, the Eurozone countries and the United Kingdom have been preaching the virtues of fiscal austerity measures. Indeed, several of them, including Germany, Spain and the UK have either started or will soon start practising what they preach. On the other side of the Atlantic, the Americans have been proclaiming that the time is not right to cut back on government spending since the global economy is still to recover from the recent worldwide recession. Economists, who as a breed seldom seem to agree on important issues, are equally divided. So, both points of view can claim the support of ‘experts’.

Not surprisingly, the final communiqué represents a compromise between these extreme positions, with a ‘small victory’ for the Europeans. The world leaders have agreed to cut budget deficits by half over the next three years. As a concession to the Americans, the communiqué also declared that “we are committed to taking concerted actions to sustain the recovery, create jobs....” But, clearly, the clock has turned full circle from meetings in 2008 and 2009, when the overriding emphasis was on how to coordinate increased government spending in order to stimulate the global

economy.

The Eurozone and the UK are perhaps apprehensive that their economies would soon face problems similar to those which almost resulted in a collapse of the Greek economy. For instance, the Spanish economy has failed to recover from the recession. This has meant a sharp fall in government revenues, resulting in a steep increase in public debt. Fears that it would not be able to raise sufficient funds to bridge the gap between revenue and expenditure forced the government to launch rather draconian reductions in expenditure, including severe cuts in bureaucrats' salaries.

But even stronger economies have been struck by the austerity bug. Take, for example, the German economy, which seemed to be well on the path of economic recovery. However, the German government was very active in pursuing expansionary policies during the latter half of 2008 and throughout 2009 in order to mitigate the global slowdown resulting from the financial crisis. The Germans also paid the lion's share of the mammoth European Financial Stability Facility, which was set up to bail out the Greek economy. Not surprisingly, what was quite a healthy budgetary position in 2008 has turned into a pretty bad one today — there is now a deficit of five per cent of the gross domestic product.

The German government has now decided to pledge as much as 80 billion euros in tax increases and spending cuts next year so as to save roughly 0.5 per cent of the GDP. Of course, the German austerity drive pales into insignificance compared to what George Osborne, the new UK chancellor of the exchequer, has planned for the UK economy in his first budget.

Osborne and all other proponents of the austerity drive claim that no nation can afford to live beyond its means in the long run. They assert that countries' economies are not dramatically different from

that of individual households. The latter can bridge a temporary gap between expenditure and incomes by borrowing. But loans must ultimately be paid back and so household budgets must be balanced over the long run. One difference between sovereign governments and households is that the former can float their own bonds or debt instruments. But even governments cannot afford to borrow year after year, because they would find it increasingly difficult to get buyers for their debt instruments.

There is more than a grain of truth in this argument. After all, sovereign debt defaults take place — the recent history of Argentina illustrates this clearly. So there is no reason to doubt that when public debt piles up and becomes unmanageably large, prudence dictates that the government cut back on expenditure. Of course, the reasons for rolling back the stimulus packages must be overriding. It is important to emphasize this caveat because it is possible that Osborne's decision to slash spending was also heavily influenced by his economic philosophy — that even in the best of times, the size of the public sector should be as small as possible.

The real debate must be not about the necessity of pursuing prudent budgetary policies, but about the timing of initiating contractionary fiscal policies. Many economists feel that it is too premature to reverse the stimulus packages that were implemented a couple of years ago. They point out that the Europeans need to remember the experience of 1937, when the American attempt to balance budgets pushed the American economy back into severe recession — just at the point when it seemed to be climbing out of the depression.

On both sides of the Atlantic, the major economies have just started to record positive rates of growth. But the process of recovery has just started. Unemployment levels remain high, many of the people who have been unemployed for some time have quite naturally run through their savings. So, governments must ensure that jobs are

created as soon as possible, and provide adequate safety nets in the form of welfare payments until people are absorbed into gainful employment. This is worth emphasizing because most reductions in government expenditure also have painful consequences since they typically involve large cuts in social welfare schemes.

Unfortunately, these economies are still very precariously balanced on the brink of a precipice — even a slight fall in aggregate demand may push them back into the throes of a fresh period of depression. However, if all the major countries start cutting back on expenditure, then it seems almost inevitable that there will be a very large fall in global aggregate demand. This may push some of the weaker economies, such as the UK, back into the negative growth regime.

Moreover, such a scenario will also tend to be self-defeating. For instance, the UK budget estimates assume that the private sector will expand sufficiently rapidly to more than compensate for the reduction in the size of the public sector. This optimism is partly based on the assumption that private sector growth will be spurred through a rapid rise in export demand. But why should there be an increased demand for British goods if all other countries are downsizing? Perhaps, a more likely scenario is that we will soon witness a race to the bottom — unless better sense prevails.

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ENVIRONMENT

HINDUSTAN TIMES 14.7.10 ENVIRONMENT

Islands in the storm

Samar Halarnkar

‘Each one for himself or herself. As in Benares, in the Ganges, each for himself and looking after his own salvation.’ These observations were made around 1912 by a French wanderer called Henri Michaux as he drifted across conquered India, recording the “living challenge of the Asiatic peoples to our terrible Western monotony”. In his book, *A Barbarian in Asia*, Michaux exults, “Love live the last resistants!”

A century later, we are still the last resistants. Not for us the comfort of the same McBurger from sea to shining sea. Not for us the conformity of blue jeans and office suits. Not for us the efficiency of Walmart, small government, building codes, one authority or working to a plan.

As the monsoons wreak their annual havoc on the cities of emerging India, it’s quite obvious that we are building new infrastructure with scant regard for the basics of town planning, quality standards and common sense, cooperative administration. So, Delhi’s grand, new interchanges are flooded after the first monsoon showers. Oops, it turns out that the road engineers didn’t build drains. So, despite a wealth of experience at her command, the chief minister of Delhi still needs to do the job of a drain inspector.

There is no method to the madness. Workers uproot old pavements,

laying sandstone tiles, carefully chosen to match the buildings of the Raj. It takes weeks of haphazardly strewn debris, an inhuman, shambolic tent city of workers and much shoddy execution before the new pavement is ready. Within days, sometimes hours, along come another lot of workers and tears up the pavement.

Things are now so comical that Sheila Dikshit, chief-minister-turned-drain-inspector, announces a date — not to finish work but to clear debris. She also orders that the men and women working for a host of agencies — MCD, NDMC, PWD, DMRC — must show results. The Municipal Corporation of Delhi promptly declares the flooded areas are not in its jurisdiction and blames the Public Works Department and the Delhi Metro.

In India, whatever goes wrong is usually someone else's responsibility. So the director general of police in India's most-insurgency-wracked state publicly blames the paramilitary Central Reserve Police Force (CRPF) — outsiders flown in and deployed in remote areas where the state police refuse to go — for the deaths of more than 100 CRPF troopers. After years of ignoring injustice and poverty, to expect 66,000 ill-trained troops to bring order to a region half the size of Europe is a bit rich. India is still so poor that we struggle to understand how badly off we are.

A new global report says there are more poor people in eight Indian states than there are in the 26 poorest African nations combined.

The Indian official's ability to work towards his or her salvation to the exclusion of realities is not new, but it is surprising. The Judeo-Christian ethic that defines the Western world was built on the power of the individual. Yet, Western civilisation in its order provides a great example of cooperative effort. No man is an island. Indians are, by instinct and tradition, a people given to living in groups. We define ourselves and our bonds by caste, community,

religion and organisation. As a nation, these bonds lend us unique, colourful identities and help us survive poverty, tragedy and destitution.

We now need to break some of these bonds while working for the public good. At the very least, the Indian bureaucracy must acquire the ability to work with those not of the group, to accept responsibilities that go beyond the group. Corporate India has learnt these techniques, borrowing the best practices of the West and infusing them with native resilience, creativity and the ability to work long and hard.

A test case for working towards the common good in the public sphere is emerging as the government's next great challenge looms: transforming India's hidebound bureaucracy and reforming the wasteful, corruption-ridden social-security schemes that could theoretically eliminate poverty. As part of its 'Re-Imagining India' series (www.hindustantimes.com/reimaginingindia), this paper has reported how a handful of inspired, energetic bureaucrats and politicians have shown that governmental India can work as a team.

Successful as they are, these initiatives are still islands of order in a sea of chaos. The overwhelming lesson from successful public initiatives is that teams mirroring the old social order rarely work. They need an infusion of talent and ideas from the outside; combine it with a strict adherence to standards, laws and quality; while retaining the ability to be flexible and nimble. That's how the Delhi Metro works. That's how the National Health Insurance Scheme (it offers 60 million poor Indians a cashless, paperless insurance anywhere in India) works. That's how, in a country where more than half the Rs 55,000 crore of the 2010-11 food subsidy will be wasted, the Chhattisgarh government has become the only state government to deliver to its citizens a modern, efficient system of distributing food to its poorest people.

Change must come from the top. Sonia Gandhi and Manmohan Singh need to show that the UPA intends to reform one of the world's most regressive bureaucracies. The alliance did just enough creative thinking to squeeze through as UPA-1 and UPA-2. Unless it begins the really hard work of finding answers to the big administrative questions, an endlessly aspirational India won't vote in a UPA-3.

JUDICIARY

HINDU 12.7.10 JUDICIARY

Ensuring justice to the victims of injustice

S. Viswanathan

The Indian media have a vital responsibility in enabling society to combat and eliminate social evils. 'Honour killings' are a particularly barbaric social practice targeting those who defy the traditional ban on 'same gotra' marriages or marry out of caste. The central government has decided to "consult" the States on steps to put an end to the spate of such killings in several parts of the country. A Group of Ministers will go into the issue and suggest changes in the law. It has been reported that although Cabinet Ministers agreed on the need to stop the killings, they were divided on which laws needed to be amended.

This is not an issue on which State rights are at stake because there is no question of a civilised society, governed by the rule of law, tolerating such savagery in the name of tradition. The challenge is the existence of 'khap panchayats,' which provide social sanction for the savagery. In Haryana, which probably accounts for the largest number of 'honour killings,' both the Opposition and the ruling Congress are one in defending the institution. Chief Minister Bhupinder Singh Hooda has declared that marriage within the same gotra was not part of the tradition in Haryana. He claimed that the khap or community panchayats were not responsible for the killing of couples marrying within the same gotra. He was glossing over the social truth that it is

the ruling given by the khap panchayats nullifying the marriages within a gotra that leads to the killing of girls and boys, invariably by brothers or uncles of the girls. Mr. Hooda's principal political opponent, former Chief Minister and President of the Indian National Lok Dal Om Prakash Chautala, did not lag behind. He was also seeking a change in the law. He met Union Home Minister P. Chidambaram and pressed for amendments to the Hindu Marriage Act with a view to banning "the same gotra marriage."

(The law referred to is The Hindu Marriage Disabilities Removal Act, 1946. It is an act to remove certain disabilities and doubts under Hindu Law in respect of marriages between Hindus; marriages between persons of same gotra or prevara. The Act says: "Notwithstanding any text, rule or interpretation of the Hindu Law or any custom or usage, a marriage between Hindus, which is otherwise valid, shall not be invalid by reason only of the fact that the parties thereto (a) belong to the same gotra or (b) belong to different sub-divisions of the same caste.") A Congress M.P. from Haryana, Naveen Jindal, swore by the khap panchayats, reportedly explaining that he and his entire family respected their "years old traditions and rituals." In Punjab, Rajasthan, Uttar Pradesh, Bihar and Jharkhand, in which the practice of 'honour killings,' whether based on khap panchayats or otherwise, has been reported, the situation might be somewhat different from Haryana's. However, given the proximity of the caste leaders to the power centres in several States, their response to the idea of changing laws would be an interesting subject for the media to study, report, and comment on.

NGO petition

In respect of amending certain laws, the central government has

taken the lead from the orders of the Supreme Court of India to eight State governments, besides the Centre, to submit reports on the steps taken to prevent the inhuman practice of 'honour killings.' The orders of a Division Bench of the Court followed a petition filed by Shakti Vahini, a non-governmental organisation, under Public Interest Litigation. Shakti Vahini, which had been working in the field of women's rights and related issues, told the court that apart from 'honour killings,' which was an extreme form of reaction, women had to confront long-term, low-level physical abuse and bullying as a punishment for bringing the 'family honour' to disrepute. Such abuses could include torture, mutilation, rape, forced marriage, and imprisonment within the home, according to the petitioner. It also pointed out that when the State remained a mute spectator, there was fear among the youth and young couples who were already married or were planning to get married. The petitioner wanted the Supreme Court to lay down guidelines for law-enforcing officials on the pattern of the guidelines for combating sexual harassment at the workplace.

There is no evidence to show that the killer panchayats have been stopped in their tracks. At the same time, the movement against their barbaric diktats has gained momentum. Human rights organisations, social and political activists, and youth and women's organisations have stepped up their campaigns. These, together with what has begun to assume the contours of a national media campaign, have created greater awareness of the rights of young men and women to free choice and dignity. Almost all daily newspapers and magazines carry detailed reports with interviews and opinion pieces on the subject. Sadly, there is no matching endeavour among administrators and law-enforcement authorities in the affected States to keep pace with the crimes and help stop the atrocities. Here is an opportunity

for the media to step up their campaign against the social evil in a big way. They can do this through more detailed and comprehensive coverage on the ground and a more systematic attempt to mould public opinion, especially in the States where the khaps are at their deadly work.

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NON GOVERNMENT ORGANISATION

INDIAN EXPRESS 8.7.10 NON GOVERNMENTAL ORGANISATIONS

NGO non-governance

According to the first governmental survey of the terrain, India is teeming with non-governmental organisations — at 3.3 million, possibly the most in the world. They are registered under a cluster of different acts — from the Societies’ Act to the Indian Trusts Act, from the Charitable and Religious Trust Act to a clutch of Wakf acts. These naturally include organisations with a whole range of diverse motives and mandates — from temple trusts to transnational aid organisations, from the touchy-feely arms of big corporates to foundations and cultural societies and activist groups. Going by the definition proposed by Peter Willetts, author of two books on NGOs, the term includes any organisation that is independent of government, not constituted as a political party, non-violent, non-profit and non-criminal.

The number of NGOs has risen dramatically in the last 10 years, and yet we don’t really know the size and nature of this vast “third sector”. One reason for this is obviously the fact that they can go where unwieldy state mechanisms cannot or do not. Even as aspirations have proliferated, the state often plays catch-up enabler;

naturally other organisations have grown and spread to fill in the cracks. Some of these are exemplars of development action, and given that a state challenged by society is the best situation for citizens, they criticise and goad as well as supplement the state's efforts.

Clearer guidelines on incorporation and fund-raising would definitely help. Our legal structures make it difficult for them to invest funds, and make them dependent on a steady stream of donations; on the other hand, their financial workings are largely unmonitored and opaque. Given that government is the biggest donor to many NGOs, transparency and disclosure norms are especially important. As the vice president recently stressed, many NGOs now work with unprecedented levels of public funding because of their role in implementing giant Centrally-sponsored welfare schemes, but are not audited by the CAG. Given the enormous trust we repose in them, it is important that these private caretakers of the public good hold themselves to stringent standards of accountability.

POLITICS AND GOVERNMENT

In the politics of protest, the Bandh is way past its use-by date

Gautam Chikermane

Don't know how to put it but if I were to use a word, it would be: Outdated. For the India of tomorrow, the political establishment is disappointingly out of sync. Steeped in the old, with no sense of reference to a future that has already happened, the 'political' has virtually disengaged with the 'economy'. The Opposition's politics of protest has ceded the new authority of growth and prosperity to the governing parties. That self-goal behind it, the Opposition is now all set to face the resultant anger of the people it is pretending to protect.

They may choose to ignore the statistically-dispersed and thereby politically-insignificant middle class, who they may say has a vested interest in ensuring business as usual — working a hard day, sending children to school, shopping at a mall and maybe watching a 10.40 pm show of *The Karate Kid* — as they EMI their way through cars and houses. This class of people doesn't vote, so let's not worry about them...so the argument goes.

But when they come to fight for the poor, they use tools of the past that have no meaning in the political economy of today. For one who brings home an income and food only if he goes out to work as a construction labour, a small trader or a driver, for instance, anything that comes in the way of his reaching his work place means

one day's wages lost. A rickshaw puller not only loses his earnings for the day, but in many cases, his rickshaw as well, as goons in the garb of fighting-for-the-people destroy his livelihood that in most cases is on lease.

The Opposition hasn't a clue of what an 8-10 per cent GDP growth rate means to the man on the street or to a nation starved of opportunities. If inflation has made life tough — and there's no denying that — a large part of that difficulty has been made up by increased incomes. A very rich farmer told me last year that NREGA is destroying agriculture as he was unable to find labourers to work his farm. Meaning, even in the remote interiors of India, incomes — and the accompanying labour choices — are up.

Broadly, the bandh is to protest UPA's economic reforms through deregulation of petrol and increase in the price of diesel, kerosene and LPG cylinders. What the Opposition means, but possibly doesn't know, is: let the burden of what we spend today be borne by our children tomorrow. The fact that the government could have balanced this deregulation and the resultant price rise with a cut in taxes on the fuel is a fair argument. I suspect the government is keeping that as a policy flexibility in case global prices of fuel cross \$100 a barrel again. Besides, sales tax is a state subject and many Opposition governed states haven't cut those.

Whatever else you do, the pressure on fuel prices is not going to go away. And not because of shortages of the commodity or its global prices that will rise and fall in this age of serial crises. It's because when an economy starts to grow at the pace India currently is with a trillion-dollar scale, it needs more energy to fuel its power plants, automobiles, commercial vehicles, aircraft, ships that in turn feed its industries, businesses, households. It's a part of growing up, I would say.

Returning to politics, the rise in the price of an LPG cylinder is not going to affect the poor as the Opposition parties are suggesting but the non-voting, politically-unimportant middle class. The increase in petrol prices is going to affect those with two- or four-wheelers, not the poor who walk or cycle. The increase in the price of an LPG cylinder is not going to affect the poor who run their kitchens on wood, but the middle class. Kerosene could be the sole exception which the relatively less well off — but certainly not the poor — use.

There remains the issue of fuel price rise trickling into the economy as transporters raise their freight rates, which in turn increase prices of goods and services. According to the government this will add 1 per cent to inflation — not high but badly timed as food inflation stands at 12 per cent and wholesale price inflation at 10 per cent. My suspicion is that such a rise would be digestible, given that the bandh comes a year after prices have been ruling high. So, what's the political logic of this bandh that hurts largely the poor?

The answer: caught up in the momentum of the past, infatuated by the Angry Young Man of the 1970s and with little imagination to lead India and its citizens towards a fast-growing developed economy status, the Opposition is crying for political attention with nothing to offer. It is needlessly pushing the use-by date of a tool that has all but died.

TERRORISM

HINDU 12.7.10 TERRORISM

Transnational terror needs cross-border cooperation

Sandeep Dikshit and Anita Joshua

Without Indian and Pakistani investigators joining hands, Pakistan's Mumbai trial may go nowhere.

On July 3, exactly a week after India and Pakistan decided that their premier investigation agencies would work together on the Mumbai terror attacks, the defence of the seven accused in the case in Pakistan were not particularly sweating.

And it was not just bravado, insisted the defence team's Malik Muhammad Rafique Khan. The prosecution had just informed the anti-terror court in Rawalpindi's high security Adiala jail that India would not send Ajmal Kasab to testify against the accused — Zaki-ur Rehman Lakhvi of the Lashkar-e-Taiba (LeT) and six others. If Kasab is not allowed to testify, the evidence that India has provided against the accused cannot come on record as per Pakistani law, contends Mr. Khan. And the prosecution's entire case in the Mumbai trial in Pakistan is built around Kasab's confessional statement, he adds.

India's 'no' to Kasab being sent to Pakistan took nearly two months coming and now the prosecution is hoping the magistrate and the police

officer who recorded his statement can come instead. When Pakistan's Interior Minister Rehman Malik aired the proposal, it had come under withering attack from the opposition in India. Even officials in the Ministry of External Affairs had bristled at the suggestion.

Though India has sent several dossiers on the Mumbai attack, the defence team is “least concerned,” courtesy “the inefficiency of the Indian investigators”. Refusing to comment on the quality of evidence provided by India, Mr. Khan said there was nothing substantial and the proceedings were further delayed by the number of witnesses.

On the charge that the case was being deliberately delayed, the defence's counter is that priority was being given to it — hearings take place almost every Saturday and the Mumbai case is the first to be taken up when the anti-terror court convenes. That the case gets heard every Saturday and has a judge dedicated to it almost exclusively is evidence of Pakistan's intent, according to Supreme Court lawyer Ahmer Bilal Soofi. “This is just one of those actions of the Pakistan government in this case which speak for themselves but went unnoticed in the acrimony.”

People privy to the deliberations within the Pakistani establishment after the Mumbai attacks insist that there was a sea change in the approach compared to the Parliament attack in 2001. “At each step — be it to register a case and arrest people — there was debate and discussion and all stakeholders were present: the Inter-Services Intelligence, the Interior Ministry, the Foreign Office, and the Punjab government. There was a conscious decision to do something. After the Parliament attack, we went into a denial mode and allowed tensions to build up,” said an official.

‘Big step’

“Yes, we first denied Kasab's links but a case was eventually registered,” points out Mr. Soofi, underlining that the Pakistan

government in November 2008 was fairly new and could not do anything without the ISI's backing. "Registering the FIR was a big step. Second was the arrest of seven people. It went unnoticed but for the first time the establishment did not obstruct the arrest of its 'assets.' The government could have released them under watch till evidence was gathered. If window-dressing was all we intended to do, no arrests were needed. When the public prosecutor submitted the case in court, the government admitted that it found the persons guilty. It is a huge statement for the government of Pakistan."

Then why the slow pace is India's counter. In his recent talks with Mr. Malik, Union Home Minister P. Chidambaram let it be known that India thought the trial had not started in the real sense. The Pakistan Foreign Office and lawyers respond in a chorus: Kasab's case in India took 17 months when there was just one accused and the scene of crime was nearby. Look at the logistics in Pakistan: seven accused and their lawyers. There are about 100 witnesses and the lawyers will cross-examine them separately.

More bad news is the death of the state's "most confident prosecutor" Rab Nawaz Noon. Lawyers interpreted his appointment as another attempt by the state to demonstrate its seriousness in pursuing the case as he was not from the regular panel of prosecutors. "Now they have to change horses midway. That is a setback for the prosecution and could cause further delay," said a lawyer.

This apart, both countries lack the technical and legislative capacity to try a trans-national crime which transcends more than two countries. "Trans-national crimes have different legal dynamics and, unfortunately, India and Pakistan don't have much experience in dealing with such crimes. Even if they had, it is always a difficult crime to prosecute," explains Mr. Soofi who heads the Research Society of International Law which conducted a legal workshop on the Mumbai trials earlier this year.

“Generally, trans-national crimes are tried at one venue and all evidence is brought to that court. Most European countries have a mutual legal assistance (MLAs) mechanism in place to deal with such crimes. Evidence travels from one country to another on the conveyor belt of MLAs. Even if India and Pakistan sign an MLA, it is of no use because courts in both countries do not consider treaties as part of domestic laws. That is why what is being given to us by India through dossiers is inadmissible.”

A possible way out of this stalemate is to allow the Pakistani investigators access to witnesses and sites. But this would require Indian witnesses to depose in Pakistan's courts. Or, provisions of Chapter XL of Pakistan's Code of Criminal Procedure could be invoked which provides for setting up a commission to record Kasab's testimony as a witness and cross-examine him in India.

All this requires operational cooperation which has been missing from the beginning and the trial was split. “The actual crime was investigated in Mumbai and the conspiracy here ... as it is, conspiracy cases are difficult to establish.” While Mr. Soofi sees the atmosphere of greater cooperation as a welcome change, the result of a joint investigation will still not be admissible as domestic laws are not in place.

An irritant

Even if there is actual cooperation, Hafiz Saeed remains an irritant and from what most security experts have to say, this will keep festering as Pakistan can ill afford to repeat a Lal Masjid. Explains Imtiaz Gul, author of *The Al Qaeda Connection* and Executive Director of the Centre for Research and Security Studies: “There are political and social compulsions; can we deal with the fallout in case Saeed is ‘harmed’ in any way? We are still suffering the consequences of the Lal Masjid operation [July 10, 2007] involving a small group that has now resulted in the Ghazi Force. Taking on the LeT would probably result in far graver consequences [hence the tolerance, and reluctance to crack down

on them]. How do you deal with the hundreds of thousands of students at Jama'at-ud-Da'wah [JuD] madrasas if they were to see the state coming down hard on them? The state has no capacity to take care of these youngsters. Public sector education is already a shambles.”

Saeed's lawyer A.K. Dogar insists that it is not as if the state did not proceed against him. But when the court asked the prosecution to furnish the notification regarding the ban on JuD, it was unable to do so. Also, he insists, India has not provided any substantial evidence except again for Kasab's statements.

Pointing out that the United Nations itself had issued certificates to JuD recognising its work in Sri Lanka after the tsunami and in the Neelum Valley in “Azad Kashmir” after the 2005 earthquake, he maintains that Saeed had left LeT just like politicians change parties. Now, he says, he is totally committed to social work: running 142 schools and four universities, besides hospitals. And, he has a tremendous following, evident in the court whenever his case was heard. “The atmosphere used to be extremely charged in the courtroom.”

As for India's insistence that the government at least stop him from making hate speeches — like his recent diatribes against “Indian water aggression” — Saeed's lawyers and many in the administration contend that he has the right to speak unless he tries to spread disaffection against the government. An FIR was lodged against him once in Faislabad for urging people to take to jihad but that was struck down.

This, like the frequent acquittals in terror cases, is the result of the legal system and the presence of Taliban/al-Qaeda apologists, says Mr. Gul. “Both countries suffer under the Anglo-Saxon legal system, complicated by domestic political compulsions. The system is tedious and fraught with loopholes which lawyers exploit. The conclusive evidence required to convict somebody is hard to define under this law. An additional factor is the Taliban/al-Qaeda apologists who are all over — the media, the judiciary, traders' community, within religio-political parties. While

cases are difficult to prove, individual sympathies also run counter to the efforts to nab and convict terrorists.”

The bottom line is that while India and the U.S. can keep pushing hard for action, Islamabad has to negotiate through the minefield that its history has laid out for the nation. “Do more” is easy to say from the outside. Inside Pakistan the script is written not just by the government but ...