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On the Cover
January 24, 1950: Jawaharlal Nehru signing the Constitution at the final session of the Constituent Assembly.

PHOTOGRAPHS: THE HINDU PHOTO LIBRARY

Cover Design: U. Udaya Shankar

Published by N. Ram, Kasturi Buildings, 859 & 860, Anna Salai, Chennai-600 002 and Printed by P. Ranga Reddy at Kala Jyothi Process Private Limited, Survey No. 185, Kondapur, Ranga Reddy District-500 133, Andhra Pradesh on behalf of Kasturi & Sons Ltd., Chennai-600 002.

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The Republic

At 60 the Indian Republic has come a long way, but it has to travel a greater distance to achieve the goals set in the Constitution. BY GRANVILLE AUSTIN

The question is: Can India be a great democracy, strong in itself and in the eyes of the world, so long as so many of its people are denied the promise of the Preamble?

ANY people that sets out to govern itself assumes a monumental task. Who are “we?” Are “we” a congeries of groups, or something that might realistically be called a nation? What do we want from self-governance – our form of political and administrative organisation; our form of representation, the reach of suffrage; the kinds of laws and the institution that should oversee their justness and effectiveness – especially for the lower classes in society; what should “our” goals be for the entirety of this new thing that we are creative? Are we going to write this all down – and call it a “constitution”?

The public figures gathered in New Delhi in 1946 confronted all these and more issues. The Indian Constituent Assembly declared three grand goals for the founding document: They were protecting and enhancing national unity and integrity, establishing the institutions and spirit of democracy, and fostering a social revolution (often called socialism) to better the lot of the mass of citizens. As essential as were the goals, individually, the framers believed that none should be pursued at the expense of any of the others. They were mutually dependent.

Of course, the institutions for government created in the Constitution also were mutually dependent whether or not their responsibilities put them at odds. The judiciary often struck down parliamentary legislation as not in accordance with the Constitution. Parliament responded, first in 1951, with an Act that placed certain land reform laws outside the Supreme Court’s jurisdiction. In 1973, the government, during Indira Gandhi’s prime ministership, did its best to curb the court’s reach and, indeed, to bring it closely under the influence of the executive branch. The relationship between the court and the government was soured several more times during the 1970s and 1980s and the first few years of the 1990s before stabilising since then.

In federations that may find themselves facing issues where Central government authority may be at odds with actions by the constituent units’ governments (State legislative and executive actions) Supreme Courts are typically called upon to settle the disputes. Somewhat surprisingly, the court in Delhi seldom has been called upon to adjudicate these “federal” cases. It has been approached through political channel – the dominant party at the Centre bringing its power to bear on the party dominant in the Legislative Assembly in the State. When the Congress party was powerful, nationally, this was comparatively easy. As other political parties won
in retrospect

power in the States, the task was far more difficult. In the late 1960s and in the 1970s, with Indira Gandhi in office as Prime Minister, she clipped the wings of the Congress in the States and outmanoeuvred other State parties. This trend culminated in her well-known Emergency, in which her government and Parliament, over which she had unchallenged influence, held authoritarian sway over the entire country.

This degree of “centralisation”, to employ an inadequate euphemism, had been seen in milder form for two decades. State governments had been complaining about New Delhi’s policies to exert influence over them. Chief Ministers formed committees in protest, offering recommendations for measures, constitutional and less formal, to restore greater balance in the federal relationship. The Centre, for its part, devised methods to bring the Ministries and the State governments together for problem solving. These efforts, however, typically bore New Delhi’s stamp and were unpopular with the States, which continued to level charges against centralisation. The report of the Commission on Centre-State Relations, chaired by Justice R.S. Sarkaria and published in 1983, proposed alterations in constitutional provisions and extra-constitutional political practices that, if implement-
ed, would have markedly improved the situation.

None of this should startle us greatly for the Constitution tips the scales of power towards the Central government. The mood among the framers was anxiety about national unity and integrity. Partition was only months in the past; Kashmir’s status was undecided; there were murmurings of separatism among the Sikhs; Telangana was in revolt; the north-east was uneasy (as it since has continued to be); secularism versus communalism worried Jawaharlal Nehru and other Congress leaders; economic planning and development depended upon national unity. Still, Centre-State relations have worked. India now is a united nation, blemishes notwithstanding. If Telangana does become a State it is unlikely that its relations with New Delhi will vary significantly from those of other States. Most important was, and is, that the Constitution is two documents, a national constitution and a constitution for the States – a situation that seems to have had little effect on Centre-State relations. The appearance of independent political parties in States will reduce the ability of the Central government and its constituent parties to meddle in State affairs. Violence by naxalites, however, persists as a dangerous matter. But not more so than exploitation of peasants by alliances between politicians and economic “developers”.

From time to time during the past 60 years, theorists have argued that federal and parliamentary systems fit ill together. In India’s situation, personally, think that little would be gained from changing to a presidential system. Beyond the vast subsidiary changes that would be entailed, States would still be dependent on the Cen-

JAWAHARLAL NEHRU ADDRESSING the Constituent Assembly on January 24, 1950. On that day the members of the Assembly appended their signatures to the Constitution, which then came into force on January 26.
One – the tenant farmer, the agricultural labourer, the Dalit, the member of the backward classes – to the person at the top of society – as defined by economic status or caste – who strives to maintain the contacts in government that bring him money, who assures his son a place in a university or a good school (perhaps with a little gentle bribery), to him who, no matter what his caste or income, follows the scriptural injunction to promote the well-being of his family before that of his neighbour.

The well-known social thinker R.C. Dutt has said that “the moral atmosphere of the struggle for existence...has provided ample opportunities for corruption and for collective self-aggrandisement at the expense of the poor”. P.N. Haksar, for some time secretary to Indira Gandhi, has said that members of “our civil services...are committed first of all to themselves and to their nuclear family...[and beyond this] to members of...his sub-caste, caste, community, and region.”

Himalayan Barrier

These characteristics of Indian culture, have constituted a Himalayan barrier to achieving the creed of the Preamble. Yet, the provisions of the Constitution have chipped away at the barrier with some success. Adult suffrage has been its principal tool – even though candidates elected may promptly ignore the promises they have made to constituents. As injurious to the integrity of adult suffrage – and certainly to its reputation in India and abroad and to Parliament and several State legislatures – has been political parties giving the ticket to known bribe-takers, lawyers, and the courts are considering these questions seriously. Faith in the Constitution is widespread among the wide variety of constituencies.

In a speech given recently on Human Rights Day, the noted advocate Fali S. Nariman said: “It is not because of our Constitution but despite its provisions that we have failed to achieve what were naïvely assumed [in the year 1950] to be achievable goals.” Nariman added: “The remedy to effectively countering discrimination...is not by law, but in attitudes...[which] must change.” The noted political thinker Andre Beteille summed up this appraisal when he wrote that “a constitution may indicate the direction in which we are to move, but the social structure will decide how far we are able to move and at what pace”.

A Success Despite Frailties

The Constitution and its seamless web of democracy, social revolution, and national unity and integrity have met India’s needs. It is fair to say that it has been a success despite some frailties – which might, with political will, be easily remedied. Yet the Constitution has presented a paradox: the sturdiness of the system it has provided has permitted vast deviations from its system and its spirit, by those who would ignore them or distort them. The Constitution has provided protective coloration much as an animal or a bird changes its appearance without changing its be-
ing. Praising its provisions has given licence to those who would ignore them to do so. Democracy was subverted by the First Amendment’s placing of the land reform legislation beyond the Supreme Court’s jurisdiction, by the executive branch’s many attacks on the court’s independence, and by the imposition of the monstrous Emergency in 1975.

The Preamble’s promise to seek justice, social economic and political, and equality of status and opportunity – and the vainglorious addition of the words “socialist” and “secular” to the Preamble by the 42nd Amendment left conditions for Dalits and other backward castes much as they long have been. I must add here that adult suffrage, and its accompanying effect of caste encouraging political mobilisation for voting, and reservation policies have increased citizen participation in democratic processes – although caste-against-caste oppression still may be savage. To compare political conditions in, say, 1945 with those in India today demonstrates how far representative government has come during the interim.

India under the Constitution has come a long, long way in 60 years – not to forget the distance it still has to go. The critics who downplay its achievements lack understanding and empathy – particularly American critics, whose democracy has serious difficulties no matter where they look. Indeed, not looking is one of their difficulties. Indian citizens have much to be proud of, but should avoid smugness. A remedy for it could be to ask themselves what the members of the Constituent Assembly might think if, like Rip Van Winkle, they awoke tomorrow.

With Independence we have lost the excuse of blaming the British if anything goes wrong, Ambekdar told the Assembly. We will have nobody to blame except ourselves.

Historians of constitutional developments in India are unlikely to be without a job. There is too much going on, too much to puzzle over, to learn. One matter, among the many others, especially perplexes me. Can India be a great democracy, strong in itself and in the eyes of the world, so long as so many of its people are denied the promise of the Preamble?

Constitution today

Be it Parliament, Governors, the Speaker or the Supreme Court, reform is practicable through constitutional amendment provided political parties realise it is in their interest to remove the deformities that have crept into the Constitution.

“In Constitutions are easily copied, temperaments are not; and if it should happen that the borrowed constitution and the native temperament fail to correspond, the misfit may have serious results. It matters little what other gifts a people may possess if they are wanting in those which from this point of view are of most importance. If, for example, they have no capacity for grading their loyalties as well as for being moved by them; if they have no natural inclination to liberty and no natural respect for law; if they lack good humour and tolerate foul play; if they know not how to compromise or when; if they have not that distrust of extreme conclusions which is...
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sometimes misdescribed as want of logic; if corruption does not repel them; and if their divisions tend to be either too numerous or too profound, the successful working of British institutions may be difficult or impossible.

"It may be least possible where the acts of parliamentary persuasion and the dexterities of party management are brought to their highest perfections. Let the political parties be reduced to two (admittedly the most convenient number for Cabinet government), but let the chasm dividing them be so profound that a change of administration would in fact be a revolution disguised under a constitutional procedure" (Walter Bagehot; The English Constitution, The World’s Classics; Oxford University Press; 1867, Balfour’s Introduction to the Second Edition, 1928; pp. xii–xiii).

THE framers of India’s Constitution decided, at the very outset, to adopt the parliamentary system of government based on the British model. On this the two top leaders were agreed. Jawaharlal Nehru was Chairman of the Union Constitution Committee as well as the Union Powers Committee. Vallabhbhai Patel was Chairman of the Committee on the Principles of A Model Provincial Constitution and the Advisory Committee on Minorities, Fundamental Rights, etc.

As early as June 5, 1947, it was decided, at a joint meeting of the Union and Provincial Constitution committees, to emulate the British model. Patel announced the decision in the Constituent Assembly on July 15, 1947: "Both these committees met and they came to the conclusion that it would suit the conditions of this country better to adopt the parliamentary system of Constitution, the British type of Constitution with which we are familiar" (Constituent Assembly Debates (CAD); Vol. 40; page 578).

Two days later, Patel told the Assembly that “a Schedule according (sic.) to the traditions of responsible government will be framed and put in”. Members demanded that the Schedule be put in first before the clause conferring powers on the Governors was adopted. Patel retorted angrily: "It has been suggested that there is no guarantee that the Schedule will come. There is as much guarantee about it as a guarantee that the House will meet tomorrow" (ibid., pages 648-649).

Two years later, on October 11, 1949, at the fag end of the Assembly’s labours, the Schedules containing two Instruments of Instructions, for the President and the Governors, were dropped; a little over a month before the Constitution was adopted on November 26, 1949. The Instruments codified a few of the conventions on which the uncodified British parliamentary system rests. T.T. Krishnamachari, a member of the Assembly’s Drafting Committee, explained unconvincingly: "It has now been felt that the matter should be left entirely to convention rather than be put into the body of the Constitution." The directions to the President and the Governors “really should arise out of conventions that grow from time to time, and the President and the Governors in their respective spheres will be guided by those conventions" (CAD; Vol.X; pages 114-116. For the texts vide B. Shiva Rao The Framing of India’s Constitution: Select Documents on India’s Constitution; Vol. IV; pages 67-68. emphasis added, through). Sixty years of the working of India’s Constitution have belied these expectations which were unrealistic even in 1949.

What Indian conventions did he expect to “grow”?

It would be a gross exaggeration to say that the perversions of the parliamentary system we have witnessed all these years, at the Centre and in the States, would not have occurred if only the conventions had been codified. Even the letter of the supreme law, the text of the Constitution, has not been spared abuse. But codification could have served as a significant check and, more, as a guide to the people by which they could judge the conduct of those they had voted to power.

Each of the major offices and institutions that the Constitution set up in 1950 bears a battered shape in 2010 - the President, Parliament, the Supreme Court, Governors, State Assemblies and the High Courts. The generation that works the system it established has a radically different outlook from that of those who enacted it and worked it for some years thereafter. As far back as 1962 Myron Weiner wrote of “India’s two political cultures”, the culture in the districts and “the second political culture [which] predominates in New Delhi”, an “emerging mass political culture” and an “elite political culture” (Political Change in South Asia; Firma K.L. Mukhopadhayay; page 114).

This was, perhaps, a trifle simplistic even in 1947 or 1962. By 2010 the divide has all but vanished. We have had Prime Ministers like Charan Singh, Chandrashekhar, and H.D. Deve Gowda, who could have done little credit even to the office of the Chief Minister. Parliament is as rowdy as any State Assembly. It is more mea-
meaningful to talk of our constitutional culture. Dr B.R. Ambedkar, Chairman of the Constituent Assembly, was steeped not only in British and American constitutional history and constitutional law, but also in the history of Greece and Rome and in political science. In this he was peerless among lawyers. His colleague, Sir Alladi Krishnaswami Ayyar, was an erudite conservative, while K.M. Munshi, alert to political realities, spoke more than once, unlike Sir Alladi, in defence of the citizens’ rights.

Constitutional lawyers of the time had drunk deep at the fount of British constitutional lore. With H.M. Seervai’s death in 1996, the last of the constitutional lawyers was gone. We have advocates of conspicuous ability ready to argue on complex issues of constitutional law or company law but bereft of the erudition and the insights that make a constitutional lawyer. They know little outside the law. If this seems harsh, listen closely to the off-the-cuff remarks they so readily dish out to anchors on television shows or editors at the drop of a hat, as it were.

When did we last see a single judge of the Supreme Court who had earned a reputation as a constitutional lawyer before his appointment to the court? How many erudite, incisive commentaries on the Indian Constitution can one cite today? The discourse is debased by political partisanship, craze for publicity, and an assertiveness that is not backed by learning. Constitutional illiteracy has spread. Informed critiques are few. Abuse receives censure that is sporadic and seldom well-informed.

There is something lacking and that is the spirit of constitutionalism. Balfour’s caution is one of the many that mocks us as we survey the situation today. Gladstone held that the British Constitution “presumes more boldly than any other, the good faith of those who work it”. That good faith is none too conspicuous in our public life.

We resented British admonitions as excuses for denying India its right to govern itself. Especially these observations in the Report of the Joint Committee on Indian Constitutional Reform: “Parliamentary government, as it is understood in the United Kingdom, works by the interaction of four essential factors; the principle of majority rule; the willingness of the minority for the time being to accept the decisions of the majority; the existence of great political parties divided by broad issues of policy, rather than by sectional interests; and finally the existence of a mobile body of public opinion, owing no permanent allegiance to any party and therefore able, by its instinctive reaction against extravagant movements on one side or the other, to keep the vessel on an even keel. In India none of these factors can be said to exist today. There are no parties, as we understand them, and there is no considered body of political opinion which can be described as mobile” (Vol. 1 (Part 1) Session 1933-34; Her Majesty’s Stationery Office (HMSO), London; 1934; page 210). It was an illiberal document, but those words sting. They are so true.

South Asia is unique among parliamentary democracies in enacting laws against defections by legislators. Such a malaise cannot be cured by laws alone. It reflects a state of political morality and an outlook that rejects the system. The defector will readily topple a newly elected government for personal gain and even wreck the system for political gain. To his niece Blanche Dugdale, Balfour was more forthright, in a conversation on April 25, 1925: “I doubt if it is written in any book on the British Constitution that the whole essence of British parliamentary government lies in the intention to make the thing work. We take that for granted. We have spent hundreds of years in elaborating a system that rests on that alone. It is so deep in us that we have lost sight of it. But it is not so obvious to others. These peoples – Indians, Egyptians, and so on – study our learning. They read our history, our philosophy, and our politics. They learn about our parliamentary methods of obstruction, but nobody explains to them that when it comes to the point all our parliamentary parties are determined that the machinery shan’t stop. ‘The King’s government must go on,’ as the Duke of Wellington said. But their idea is that the function of opposition is to stop the machine.”

The constitutional lawyer Ivor Jennings wrote in his famous work Cabinet Government: “The function of parliament is not to govern but to crit-
icise. Its criticism, too, is directed not so much towards a fundamental modification of the government’s policy as towards the education of public opinion... the government governs and the Opposition criticises. *Failure to understand this simple principle is one of the causes of the failure of so many of the progeny of mother of parliaments and of the suppression of parliamentary government by dictatorship*” (page 16).

The frailty of public morality of India’s political class was no secret even during the freedom movement. Motilal Nehru wrote to his son Jawaharlal on December 2, 1926, about the tactics used “under the auspices” of men of stature like Madan Mohan Malaviya and Lajpat Rai in an election: “Communal politics and heavy bribing of the voters was the Order of the day. I am thoroughly disgusted and am now seriously thinking of retiring from public life.... The Malaviya-Lala gang aided by Birla’s money are making frantic efforts to capture the Congress” (Jawaharlal Nehru; *A Bunch of Old Letters*; 1958, page 50). The Governor of Bengal Lord Lytton complained to the Viceroys about the practice of bribing members of the Legislative Council in the early 1920s (*Evolution of Parliamentary Privileges in India till 1947*; Salil Kumar Nag; 1978; page 212).

The wise Rajaji saw it all and wrote while in prison: “Elections and their corruptions (sic.), injustice and life power and tyranny of wealth, and inefficiency of administration will make a hell of life as soon as freedom is given to us. Men will look regretfully back to the old regime of comparative justice and efficient, peaceful, more or less honest administration.

“The only thing gained will be that as a race we will be saved from dishonour and subordination. Hope lies only in universal education by which right conduct, fear of God and love will be developed among the citizens from childhood. It is only if we succeed in this that Swaraj will mean happiness. Otherwise it will mean grinding injustices and tyranny of wealth.”

None of this was absent from the minds of the framers of our Constitution, least of all from the most erudite and discerning one among them, B. R. Ambedkar, Chairman of the Drafting Committee. He was far removed from the tribe of lawyers whose vision is limited to texts and precedents. Ambedkar was erudite, profound and insightful.

**CONSTITUTIONAL MORALITY**

While moving for the adoption of the Draft Constitution in the Constituent Assembly on November 4, 1948, Ambedkar quoted at some length Grote, the historian of Greece, on constitutional morality. It meant “a paramount reverence for the forms of the Constitution, enforcing obedience to authority acting under and within these forms yet combined with the habits of the speech of action subject only to defined legal control, and unrestrained censure of those very authorities as to all their public acts combined too with a perfect confidence in the bosom of every citizen, amidst the bitterness of party contest, that the forms of the Constitution will not be less sacred in the eyes of his opponents than in his own.”

Such confidence was not overly abundant even in 1948. Sixty years later, it does not exist. Ambedkar was not unaware of its frail nature. “Constitutional morality is not a natural sentiment. It has to be cultivated. We must realise that our people have yet to learn it. Democracy in India is only a top dressing on an Indian soil which is essentially undemocratic.”

On November 25, 1949, when he moved “That the Constitution as settled by the Assembly be passed”, Ambedkar said: “However good a constitution may be, it is sure to turn out bad because those who are called to work it happen to be a bad lot.... It is, therefore, futile to pass any judgment upon the Constitution without reference to the part which the people and their parties are likely to play.” The following day the President of the Constituent Assembly, Rajendra Prasad, pointed out that many things that cannot be written in a constitution are done by conventions. “Let me hope that we shall show those capacities and develop those conventions.” (CAD; Vol. VII; page 38. The Seth who converts his proprietary firm into a company does not acquire the corporate culture.

Indian politicians, the tallest included, betrayed the trust reposed in them. As far back as November 19, 1954, the then Union Home Minister, Kailash Nath Katju, described the practice in vogue in these picturesque terms in the Lok Sabha: “Offer some plums before them, give a *laddu* to one, a *rasagulla* to another... members from Independents will join and you will then be able to produce a majority. Now, this is an insult to the Constitution. This is a mockery of the Constitution.”
tions of basic norms of political morality as Katju correctly noted. The situation deteriorated further in 1967 when the Congress lost its hegemony. Defections became the norm. Now half a century after Katju spoke, we have lost not only vestiges of political morality but also a national consensus on which a democracy can function. During 1969-1989 it was Indira Gandhi, and later Rajiv Gandhi, versus the rest. From 1990 to this day, it is the Bharatiya Janata Party’s Hindutva versus the rest. We are a badly split polity justifying Balfour’s fears.

It is absurd to suggest that the presidential system accorded better with our national character such as it is. The defector or bitter partisan who topples a government in the parliamentary system will bring the government itself to a grinding halt as Newt Gingrich did in the United States. In India, it would pave the way for a legitimised autocracy. It is, however, one thing to lament the growing disconnect between constitutional values and public morality and between the text of the Constitution and the underlying conventions of the parliamentary system on which the text is based. It is another to assert that the Constitution is unsuited to the Indian character and temperament and should be discarded in favour of a shuddh (pure) swadeshi document, as the Rashtriya Swayamsewak Sangh (RSS) holds.

This was the very argument which Indira Gandhi’s supporters in Britain patronisingly asserted during the Emergency. They received their just deserts from Prof. W.H. Morris-Jones, Constitutional Adviser to the Viceroy in 1947 and a scholar of high repute: Referring to Eldon Griffiths’ defence of the Emergency, Prof. Morris-Jones wrote to The Times (London) on June 25, 1976:

“Mr Griffiths’ jibe about ‘exhibit A of the Westminster model abroad’ misses the point that it had become a specifically Indian achievement; it only adds insult to the injury already suffered by Indian democrats. Such denigration has long been a sport in which high imperial Tory and revolutionary Marxist could find common enjoyment. Even your own leader (June 21) chose an odd time to point out the limitations of democracy under Congress, for an incomplete democracy is diminished further, not remedied by illiberation.

“Nor can one easily detect any clear and consistent signs that the elite-mass gap which you deplore is being closed by the present regime of Mrs Indira Gandhi. And just how may the change ‘accord better with indigenous habits’? Are habits never modified? Had not growing numbers of Indians begun to make the habits of liberal democracy indigenous? Surely it is a ‘massive’ loss when damage is done to a way of political life which in two decades had already converted into citizens so many who had been subjects beyond the political pale…. Moreover, the gains are doubly suspect. In origin they are at best uncertainly attributable to Mrs. Gandhi’s dose of autocracy. In their effects they appear too fragile to endure. Unitedly, Indian democracy had freely mobilised demands and grievances; in its place is put none of the usual alternatives.”

The Constitution of India is very much an Indian achievement and Indian democracy, which it nurtures and protects, has struck root in the Indian soil. These achievements were predicted by some British statesmen. By none more prophetically or eloquently than Thomas Babington Macaulay who is decried for his thoughtless Minute on Indian Education dated February 2, 1835. Overlooked is his majestic peroration in the House of Commons on July 10, 1833, perhaps the very first prediction by anyone, English or Indian, of India’s eventual rise to self-government (“demand European Institutions”).

The parliamentary system has struck root in the entire South Asia. Its practice can be improved. There is no cause for despair provided the causes are accurately understood and the remedies effectively devised. Consider the office of the President. The first holder of the office, Rajendra Prasad, sought to undermine parliamentary democracy. His successor, S. Radhakrishnan, bared his ambitions and animosities no sooner than he assumed office. Bar Zakir Hussain, we had since rubber stamps or intriguers. We owe it to Shankar Dayal Sharma and K.R. Narayanan that in 2010 the office is just what the framers intended it to be – a constitutional head of state in the parliamentary democracy. How did
this come about? Because all the major political parties realised that it was in their interests to abide by the rules. A wayward President is a menace to all; to one party now, to the opposition tomorrow.

**ELEVEN PRINCIPLES**
The record from 1950-2010 establishes the following eleven principles. First and foremost, it is now firmly established that the President is entitled, in exercise of his own judgment, to question the government’s bills, appointments and policy proposals. Secondly, within limits, Presidents can comment on affairs of the state in public. Criticism of the government must be muted, though it should be more in the nature of sounding an alarm. In rare cases, public expression of disquiet is proper. Thirdly, the President is entitled to admonish and even censure the Prime Minister in private. Fourthly, the President’s right to know, embodied in Article 78, is not challenged. Fifthly, the practice is now established of the President receiving leaders of opposition parties, singly or in a delegation, to lodge a protest against the government’s action. He offers no comment but forwards the protest to the Prime Minister and speaks to him, if he so decides. Sixthly, it is established that the President is not bound to accept the Prime Minister’s request for dissolution of the Lok Sabha but is entitled to exercise his judgment and consider the alternatives before accepting it.

Seventhly, the power of dismissal of the government cannot be exercised except on the extreme grounds mentioned in textbooks. There was universal criticism of Zail Singh’s intentions in 1987 and again of his admission of them in 1992. The best course is to have an explicit provision on the lines of Articles 91 (5) and 130 (5) of the Pakistan Constitution, respectively for the Prime Minister and Chief Ministers of States. They say that while the Prime Minister and the Chief Ministers hold office “during the pleasure” of the respective heads of state, the latter will not exercise their powers unless satisfied that the head of government has ceased to command the confidence of the House. There follows the crucial constraint – “in which case he shall summon the National Assembly and require the Prime Minister to obtain a vote of confidence from the Assembly”. An identical expression is used for Governors.

Eighthly, not only the opposition parties but Chief Ministers of States also invoke the President’s moral authority as “guardian of the Constitution”; in their case, specifically to safeguard its federal character.

Ninthly, in 1977, the acting President, B.D. Jatti, was extremely reluctant to sign the proclamation under Article 356 imposing President’s Rule in certain States. The government’s threat of resignation induced him to sign the documents. The Postal Bill is of far less consequence. The fact remains that two successive Presidents, Zail Singh and R. Venkataraman, declined to sign it. They returned it for reconsideration in exercise of their own individual judgment. It is well settled that assent cannot be withheld; only reconsideration can be sought. If re-enacted assent must follow.

Tenthly, the question whether the President can assert a right, under Article 86, to address Parliament or to send messages to either of its Houses in his own discretion, is open. In 1950 the Attorney-General opined against it in the face of President Rajendra Prasad’s challenge on a host of issues. His opinion on the point gave no reasons. At the least, the matter is open. It is unthinkable that in an extreme case a President would flinch from taking his case to Parliament.

Lastly, the President is entitled to insist, when appointing a Prime Minister, that he obtain a vote of confidence from Parliament within a stipulated short period.

The existence of the President’s power of dismissal has not been seriously challenged. There is near unanimity on fears of its abuse. No responsible politician has sought such an intervention by the President against his political opponents. In 1987, some carpetbaggers did. In June, Zail Singh was tempted but wiser counsel prevailed. He would have come to grief.

India’s democracy has functioned for 60 years, bar the interlude of the Emergency. But the parliamentary system came into its own only since 1992.

**SITUATION IN THE STATES**
But this is not so in the States. Discredited Ministers are appointed Governors (Shivraj Patil and H.R. Bhardwaj). So are civil servants whose shelf-life has expired. They act as the Centre’s agents. The Chief Minister himself owes his office to the bounty of the central high command of his or her party. He cannot select his own Ministers, expand his Cabinet or sack a dissident without the high command’s permission. This is a result of the practice of 1937-39 when Congress Ministries were responsible to the high command rather than the elected legislature, a perversion that Prof. Reginald Coupland criticised trenchantly.

There is another flaw, even more fundamental. The Member of Parliament or Member of the Legislative Assembly acquires the party’s ticket to contest the polls not from his party-men in the constituency but from his party bosses. He serves as a bondman. Members of Parliament in Britain can defy the party whip. The Indian legislator lacks the capacity to revolt.

**SPEAKER’S OFFICE**
In 1937, the issue arose whether Purushottam Das Tandon should resign his party membership on election as Speaker. Both Gandhi and Nehru held that he need not, unmindful of the rights of non-Congress MLAs (Selected Works of Jawaharlal Nehru, First Series, Vol. 8; pages 351 and 376). Nehru deprecated following “blindly British practice and procedure”. Truth to tell, Nehru’s outlook on constitutional issues differed from Ambedkar’s. The hoary Erskine May holds: “Confidence in the impartiality of the Speaker is an indispensable condition for the successful working of the procedure, and
many conventions exist which have as their object not only to ensure the impartiality of the Speaker but also to ensure that his impartiality is generally recognised.” In India, this “indispensable condition” does not exist and has not existed for many years.

One doctrine deserves speedy burial: the Speaker’s office is a gift in the hands of the ruling party. The Economist of November 19, 1994, wrote: “Over the grey men, the placemen and the hired men who characterise the present House of Commons, a star shines. Betty Boothroyd, the Speaker, dominates a difficult House to a degree that her immediate predecessors never attained.” She was elected in 1993 with the support of the Conservatives though she belonged to the Labour opposition. “She won because 74 Tories rightly rebelled at the thought of someone who had just left the Cabinet – the government’s unofficial candidate, Peter Brooke – sitting in the Speaker’s chair and posing as a neutral arbiter of proceedings.”

In India, such a revolt would be unthinkable and the language The Economist used would be regarded as breach of parliamentary privilege by Speakers, most of whom are no more than instruments of the government’s will. These are the very men who will act as judges on issues of free speech in the name of “parliamentary privilege”.

The anti-defection law calculatedly makes the Speaker judge and thus further politicises an office politicised already to a degree. But Parliament itself is held to ransom. “We don’t want a debate for debate’s sake,” Atal Bihari Vajpayee said on December 19, 1995, while the memorandum of the Left Front and the Janata Dal to the President, on December 22, 1995, queried: “Can we remain supine spectators of parliamentary proceedings being reduced to desiccating debates, particularly when the government has, time and again, cynically tried to sweep a succession of scandals under the carpet?”

The implication is plain. Since debates do not yield the result desired by the Opposition, it will prevent Parliament from functioning. There is a certain contempt for debates per se, as if they are an exercise in futility. However, parliamentary debate has a direct impact on the minds of the public.

S U P R E M E  C O U R T

The Supreme Court does not enjoy the esteem that apex courts enjoy in Britain, Canada or Australia. It is not politicised unlike the U.S. Supreme Court. But it has exceeded its explicit constitutional limits to usurp the power to appoint judges to itself, to veto the police’s professional discretion to investigate into the conduct of, and to prosecute, a judge, to order the legislature on how it should conduct its affairs, and intrude on the executive and legislative domain and to silence the citizen who asserts a right to censure the judges. Constitutional learning was not expended on any of these matters. Ipse dixit were used confidently and lavishly.

Parliament had to step in to provide that truth is a defence to a charge of contempt of court.

But the Supreme Court is numbed with excessive caution when faced with issues the nation expects it to answer. We know the havoc wreaked by Justice J.S. Verma’s palpably flawed judgment allowing campaigns for Hindutva to pass muster in elections. On April 16, 1996, a three-member Bench of the Supreme Court noted the conflict in the court’s decisions (Verma had studiously ignored ones that ran counter to his view).

The Bench directed the Registry to place the case before the Chief Justice “for constituting a larger Bench of five judges, and, if possible, at an early date so that all the questions arising in the present appeal could be decided authoritatively and expeditiously” (Abhiram Singh vs C.D. Commachen & Others (1996) 3 Supreme Court Cases 665, para 14; page 671).

Chief Justices of India have come and gone since, including J.S. Verma himself. Five general elections to the Lok Sabha and umpteen to State Assemblies have followed. With characteristic mendacity leaders of the Sangh Parivar tout the Verma ruling as the last word, which it is not. The Supreme Court has refused to heed the plea to decide the matter at “an early date”. Its silence is deafening.

So it is on the issue of parliamentary privileges, which are abused ramgantly. One has lost count of the petitions pending before the court. The latest was by The Hindu. On December 9, 2004, the Supreme Court referred the issue to a seven-judge Bench, though not before delivering uncalled-for homilies to the press. Five
years have rolled by. The Bench is yet to be constituted. The abuses continue apace to the court’s knowledge, of course.

**NEED FOR REFORM**

On each of these matters – Parliament, Governors, the Speaker’s office and the Supreme Court – reform is feasible and practicable through constitutional amendment provided that the major political parties realise that, as in the case of the office of the President, it is in their interest to abide by the Constitution and remove the deformities that have crept in.

We consciously adopted, in Patel’s words, “the British type of Constitution” and froze our parliamentary privileges to the state they were in Britain on January 26, 1950. But our political class wilfully ignores developments in the U.K. thereafter. Fifty years later, a committee of both Houses of Parliament recommended codification of the privileges and abolition of the power to imprison for contempt. In Britain, it noted, “members do not divide on party lines” on issues of privilege. In India they do. The British model itself has evolved significantly. One of the most eminent authorities, Prof. Vernon Bogdanor, Professor of Government at Oxford, has written an erudite work entitled *The New British Constitution* (Hart Publishing; pages 392, £17.95). He traces the radical changes introduced by the Human Rights Act, the devolution of power to Scotland and Wales by referenda, etc. Particularly relevant to India is the chapter on “Hung Parliaments; Governing without a Majority”, a fate all too common here.

**MASS DISENCHANTMENT**

However, far more relevant are his remarks on the state of politics despite the reforms. It describes our lot as mass political party is dying on its feet. “It is hardly surprising, then, that the constitutional reform programme has made so little impact upon political disenchantment, for it has done little to open up a political system dominated by political parties, whose roots are no longer as deep as they once were, whose relationship to social interests is far less intimate than it was in the past, and which are not able ideologically to penetrate British society. Parties are no longer the pre-eminent mechanism for the expression of political opinion in Britain. They have become primarily a means by which the voter can choose between competing teams of rulers. The constitutional reforms do little to touch this condition; they do little to meet popular aspirations in a post-socialist and individualist age. They do little, therefore, to meet real popular grievances....

“The real achievement of constitutional reform is to have redistributed power, but it has redistributed power between elites, not between elites and the people. The next stage of constitutional reform, therefore, and a far more difficult stage, must be a redistribution of power, not from one part of the elite to another, amongst those professionally involved in politics and the law, but from politicians to the people.”

It is the people who alone can make the Constitution work. As John Stuart Mill noted. “If we ask ourselves on what causes and conditions good government in all its senses, from the humblest to the most exalted, depends, we find that the principal of them, the one which transcends all others, is the qualities of the human beings composing the society over which the government is exercised. Of what avail is the most broadly popular representative system if the electors do not care to choose the best member of Parliament, but choose him who will spend most money to be elected? How can a representative assembly work for good if its members can be bought, or if their excitability of temperament, uncorrected by public discipline or private self-control, makes them incapable of calm deliberation, and they resort to manual violence on the floor of the House, or shoot at one another with rifles? How, again, can government, or any joint concern, be carried on in a tolerable manner by people so envious that if one among them seems likely to succeed in anything those who ought to cooperate with him form a tacit combination to make him fail? Whenever the general disposition of the people is such that each individual regards those only of his interests which are selfish, and does not dwell on, or concern himself for, his share of the general interest, in such a state of things good government is impossible” (Considerations on Representative Government, Everyman’s Library, page 192).

To read such old truths of 1861 is to realise how far we have gone. It is an accurate description of the state of our legislatures, Central and State, and of our politics in 2010. On this our own Dr Ambedkar’s words are even more striking: “I feel that it [the Constitution] is workable, it is flexible and it is strong enough to hold the country together both in peace time and in war time. Indeed, if I may say so, if things go wrong under the new Constitution, the reason will not be that we had a bad Constitution. What we will have to say is that Man was Vilé” (Cad; Vol.VII; page 44).
The Nehruvian period’s failure to carry out revolutionary transformation of the countryside meant that full assimilation into the imperialist system could not be stopped. The onset of neoliberalism was a logical result of that failure.

THE coming of freedom in India can be conceptualised as consisting of not a single moment – or decisive event – but of two. The first was of course the midnight hour of August 14, 1947, when a formal transfer of power took place from the colonial government to the first government of independent India. The moment had its own ambiguity, however. As he took charge as India’s first Prime Minister, Jawaharlal Nehru spoke in sonorous cadence in Parliament: “Long years ago we made a tryst with destiny, and now the time comes when we shall redeem that pledge....” Elsewhere, Mahatma Gandhi, the undisputed leader of the entire freedom movement, was stricken with grief over Partition and the great killings that raged in large parts of the country. He ignored the Independence celebrations and busied himself, instead, with putting out the fires as much as he could.

The second moment, far less ambiguous, in which the long march from colonial subjection to full democratic citizenship was concluded with the coming of universal suffrage, the promulgation of Fundamental Rights and the declaration of Directive Principles, was achieved two and a half years later with the adoption of the Constitution on January 26, 1950. Conceptually, 1947 is something of a negation: when India ceases to be a colony but, in the same process, also loses roughly a quarter of the population and the territory that the freedom movement had sought to liberate. The promulgation of the Constitution signified the rising out of that past and achieving a new kind of wholeness in what we now had become. The two moments are complementary, just as the movements towards Independence and towards constitutional governance had overlapped for roughly a quarter century prior to that.

The idea of a Constitution for India kept gathering force throughout the 1920s as the national movement increasingly became a mass movement over a decade after the end of the First World War. By 1928 an All Parties Conference had appointed a committee, under Motilal Nehru, for preparing a draft. The Nehru report that came out of this exercise that same year included many of the ideas that eventually went into Part III, on Fundamental Rights, of the 1950 Constitution. Interestingly, that same report also included the suggestion that the provinces should be reorganised on “a linguistic basis”. By 1933, Jawaharlal Nehru was advocating the idea of electing a constituent assembly for this purpose, on the basis of universal suffrage.

POSITIONS ON ASSEMBLY

The idea of a constituent assembly remained a part of the Congress platform in subsequent years, even after the promulgation of the 1935 Government of India Act, the 1937 elections, the formation of Congress Ministries, etc.; indeed, the Congress-led provincial governments passed a resolution demanding the repeal of that Act and its replacement by a constitution drafted by such a constituent assembly. The demand was eventually accepted by the British Cabinet Mission, which nevertheless rejected the idea of election by adult franchise as impractical at that stage and put forth a complicated plan centred on two main mechanisms: that members of the existing
Provincial Assemblies would elect members of the constituent assembly, and that Muslim and Sikh legislators were to elect their quota on the basis of the share of their co-religionists in the population.

Nehru’s position had all along been that the British should first agree to Indian independence and a constituent assembly would then be elected through universal suffrage. Gandhi on the other hand had said that a constituent assembly may well come before any agreement on independence. In the event, the Congress registered its unhappiness with the proposal put forward by the Cabinet Mission but decided to work through this mechanism. In short, Gandhi’s idea of starting the work of a constituent assembly with or without universal suffrage and while colonial authority was still very much in place prevailed. The Muslim League, with its 73 members, raised a series of objections and never participated in the working of the Constituent Assembly.

The Congress decided to carry on the work of drafting a Constitution for India without the League, so that the Constituent Assembly that launched itself on this task on December 9, 1946, well before Independence or even the Partition Plan, was composed predominantly of Congress legislators. The Objectives Resolution, Nehru’s principal contribution to the document, was passed in January 1947. Historians who represent the Congress viewpoint jubilantly recall that day, December 9, 1946, as the day when the chronicle of independent India truly begins. The fact that Muslims in that quota-ridden Assembly were represented by four members of the Congress but not by the 73 members of the League seems to suggest that the chronicle of Partition also begins with that very day.

This historical background is important. That Constituent Assembly was then to become, concurrently, the first legislature of independent India. Its very structure had been determined by the Cabinet Mission Plan and it had functioned for the first eight months of its existence under colonial authority. It was not a product of universal suffrage, not even indirectly. Its members from British India were elected by members of Provincial Assemblies, who themselves had been elected in a system that gave the right to vote to about 15 per cent of the population on various criteria of property, education, etc. These restrictions meant that no one from other class backgrounds and political persuasions could be elected. The result is that the Indian Constitution draws upon a whole range of constitutional traditions, from the

ONE-PARTY ASSEMBLY

With the League boycotting it, the Assembly was essentially a one-party Assembly, and differences of opinion within it were really differences between the Congress Left and the Congress Right. The Congress Left was numerically small, though it had much prestige and influence because of Nehru, which was reflected in Part IV of the Constitution, the Directive Principles of State Policy. The predominant position was that of liberal conservatism as modified by Gandhi’s and Ambedkar’s profound social concerns with caste and analogous social deprivations; all that got incorporated in the much lengthier Part III.

The whole history of the Congress under Gandhi was a history of masterful comprise. This had become the accepted, internalised ethos, whether or not Gandhi intervened in particular proceedings. Thus, the Directive Principles, representing an authoritative but minority position in the Assembly, were included but made non-justiciable; they were the spiritual essence of the Constitution but had no legal status. Fundamental Rights, on which liberal/reformist consensus could be obtained, were to be the real foundations of law.

IN NOVEMBER 1973, Prime Minister Indira Gandhi with the visiting Soviet leader Leonid Brezhnev in New Delhi. (Right) In November 2008, Prime Minister Manmohan Singh with U.S. President George Bush in the White House in Washington, DC.

A RANGE OF TRADITIONS

The Assembly was studded with legal luminaries, starting with Nehru and Ambedkar who exercised the largest influence, but also many others, including Sardar Vallabhbhai Patel who oversaw the making of the constitutional and legal frameworks for incorporating the princely states; not to speak of Gandhi, the barrister, in the background, whose masterly workings of British law from all sides, pretty much as a cool cat plays with a bunch of mice, have never been as fully and ably studied as they deserve to be.

The result is that the Indian Constitution draws upon a whole range of constitutional traditions, from the
And, as soon as the Emergency was dira had had was soon to be dissolved. Nehruvian state under Nehru and In-
acter of the republic was under siege. moment when the “democratic” char-
ing of this belated revision was some-
with an amendment in 1976. The tim-
This was expanded to “Sovereign So-
of the Constitution described India as
In the Preamble, the original wording
shall be preoccupied mainly with the
and the elite among the lawyers since
work it subsequently – the judici-
more crucially, only as good as those
who made it. More importantly,
itself, which is of course true, it is best
also to recognise that it is also a prod-
uct of its own time and context, and of
those who made it. More importantly,
a constitution is only as good as not
only those who frame it but, much
more crucially, only as good as those
who work it subsequently – the judici-
ary, the legislators, the executive itself,
and the elite among the lawyers since
then.
In the present consideration, I
shall be preoccupied mainly with the
main features of the Preamble, the
Fundamental Rights and the Directive
Principles, and I shall ignore the bulk
of the Constitution.

THE PREAMBLE
In the Preamble, the original wording of the Constitution described India as a “Sovereign Democratic Republic”. This was expanded to “Sovereign So-
ialist Secular Democratic Republic” with an amendment in 1976. The tim-
ing of this belated revision was some-
what ironic. That was precisely the
moment when the “democratic” char-
acter of the republic was under siege.
Whatever “socialist” character the
Nehruvian state under Nehru and In-
dira had had was soon to be dissolved.
And, as soon as the Emergency was
over, India was to have its first non-
Nehruvian government, with Morarji
Desai, historically a stalwart of the
Congress Right and an enemy of that
‘socialism’, as its Prime Minister; the
Jana Sangh, enemy of socialism as well
as secularism, provided the largest of
the contingents to the party and go-
vernment over which Morarji presi-
ded. To the word ‘Sovereign’ we shall
return, below.
In the clauses following that open-
ing, two things are worth noting. The
word “Justice” is taken from the Amer-
ican Preamble but sought to be given
much more punch. There is, first, the
word “social” which points to many
justiciable clauses of Fundamental
Rights and in turn facilitates the con-
stitutionally guaranteed right to re-
dress for historically structured oppres-
sions, coming down the centu-
ries, pertaining to the oppressed
castes, women as well as minorities of
various kinds. The word, “political”, at-
tached to “Justice” seems to point,
most clearly, to the enormous expan-
sion of suffrage: from some 15 per cent
towards the end of British rule to im-
mediate expansion, with the advent of
independence, to all citizens.
We, who are the products of that
historic moment, rarely recognise the
magnitude and magisterial scope of
that victory for the people of India. No
Western country ever gave voting
rights to women at the very advent of
democracy. Our Constituent As-
sembly, flawed as it was, did. The
phrase “We the People” in the Amer-
ican Preamble is fraudulent; that Con-
stitution did not even abolish slavery of
African-Americans. By contrast, the
Indian Constitution not only abol-
ished untouchability but also provides
specifically for social inclusion and
progress of the oppressed castes.
And then, still attached to the word
“Justice”, is the word “economic”. Well,
Fundamental Rights have rather little
to say about it, though the unjusti-
ciable Directive Principles are co-
piously eloquent on the subject. We
shall return to this.
The next three clauses of this brief
Preamble – the operative heart of the
matter – are inspiring and disappoint-
ing, all at once. The three terms go-
verning these clauses – Liberty, Equality, and Fraternity – are of course
a familiar phrase from the Enlighten-
ment political philosophy and the
French Revolution. Yet, the real mean-
ing of each term is diluted in its defini-
tion. The most disappointing is the
definition of “Equality” as “of status
and of opportunity”. What happens,
one wonders, to Rousseau’s formid-
able injunction, already in the late 18th
century, that those who are not equal
in their access to material goods can
never be equal in their access to the
law, which Marxist theory extended to
mean that those who are not equal in
their access to material goods cannot
be equal in their access to “opportunity”?

Equally disheartening is the defini-
tion of “Fraternity” simply as “dignity
of the individual and unity of the na-
tion” (replaced with “unity and integri-
ty of the nation” by later amendment).
In its original Enlightenment forma-
tion, ‘Fraternity’ had meant, first of all,
fraternity among people of different
religious denominations in a Europe
that had been riven by religious wars
between Catholics and Protestants.
The more radical interpretations were
to suggest that “fraternity” among peo-
ple was incompatible with acute class
conflicts as well.

“Fraternity”, in other words, pres-
umed that “unity of the nation” could
not be obtained if religio-communal
divisions were not overcome and class
antagonisms were not bridged. Not to
have picked up that meaning of “fra-
ternity” in a country that had itself
come into being so recently as a result
not only of independence from coloni-
slam but also of a religiously based
Partition is at least very strange. Re-
ducing “Fraternity” to “dignity of the
individual” evades questions of reli-
gious strife, caste conflict and class
polarisation. We can only surmise that
the framers of this clause were self-
divided, between the Enlightenment
radicalism of the continental kind, to-
wards which they were gesturing, and
the Anglo-Saxon traditions of individ-
ualism, of which they themselves were the product.

Finally, we might as well return to the very first line of the Preamble and think a little more of the word Sovereign. That the country had so recently arisen out of colonial subjection explains why it is the Republic that is said to be sovereign. But where does this sovereignty actually reside in the long run, and who exercises it?

PEOPLE’S SOVEREIGNTY

In India, the Republic arose out of an anti-colonial mass movement, if not exactly a revolution. The fact that it was a mass movement that overthrew colonial autocracy and replaced it with universal suffrage clearly indicates that sovereignty must reside with the people themselves, who then provisionally delegate the effective exercise of it to one or another combination of legislators for a definite period of time.

The fundamental aspect of that mass movement, nevertheless, was that it was anti-colonial. So, in this case, sovereignty was not only a matter of republican self-definition but also, crucially, defence of that hard won independence in the nation’s external relations. Indian freedom had come at a historical juncture when the colonial system was getting dissolved across Asia and Africa, and imperialism was entering a new phase of a global empire of capital, led now by the United States, but one that functioned without colonies. This imperialism was, of course, challenged on its margins by a variety of national liberation movements and, more frontally, by the bloc of socialist countries even though those countries were economically, technologically and militarily much weaker than the advanced capitalist West. What was India’s place in this contradictory world system?

INDIA AND THE WORLD

Nehru’s initial response was to support the national liberation movements, stay away from multilateral military alliances, adopt protectionist policies and what came to be called “a socialist pattern” in domestic economy, but also build bridges toward the West. So, he retained Mountbatten as Governor-General, took India into the British Commonwealth and sought good relations with the United States as a desirable source of technology and finance. It was in fact the U.S. that spurned him and, in effect, pushed him far closer to the Soviet Union than he had desired.

Gripped by McCarthyist hysteria at home, dominated by the Dulles brothers in its foreign policy, intoxicated by its monopoly of the atom bomb, the U.S. was busily launching the Cold War and an interlocking global system of military alliances (the North Atlantic Treaty Organisation (NATO), the Baghdad Pact, the Southeast Asia Treaty Organisation (SEATO), etc.) with a view to rolling back communism and opening up the entire world for penetration by U.S. capital. In this context, Nehru’s independent economic policies were viewed with much suspicion and his friendly overtures were rejected.

It was much to his credit that Nehru responded by expanding his commitment to Non-Alignment and by turning to the Soviet Union as an alternative source of technology and finance, even while he moved vigorously against communists at home, from Telangana to Kerala. Assumption of a leading role in the Non-Aligned Movement was in a sense India’s assertion of its sovereignty in foreign policy. During that whole period, India played a constructive independent role in a variety of armed conflicts from Korea to Vietnam; supported South Africa’s African National Congress (ANC) against the apartheid regime in South Africa as well as the Palestinian cause against Israel, much to the West’s chagrin. India maintained close relations with independent-minded leaders such as Gamal Abdel Nasser, Sukarno, Patrice Lumumba, Makarios and Marshal Tito; welcomed the Cuban revolution; and aligned itself with progressive forces across the Arab world.

Non-Alignment thus had a positive, progressive content. Staying out of military blocs did not imply neutrality in global affairs or equidistance from the two Great Powers of the time. Between Israel and Palestine, or between the progressive and the monarchical regimes of West Asia, choices were clear-cut. India did not open up its markets to curry favour with the West but cultivated close and extensive relations with the Soviet Union to secure its own technological advance, growth of its industries in the public sector, building up a reasonable degree of military strength and generally an economy that was largely immune to undue imperialist pressure.

During this whole period, the U.S. did remain a pole of attraction. The Sino-Indian conflict of 1962 was used as an alibi to make an opening towards the U.S. in the military field. During the crisis years of the mid-1960s Indira Gandhi’s government did succumb to U.S. pressure for devaluation of the rupee. The Green Revolution in India did provide U.S. government agencies and agro-corporations the chance to penetrate Indian agriculture and to influence the formulation of economic policies. Much of the elite Indian intelligentsia was punctually trained in Anglo-American institutions of higher learning, thus spreading corresponding mindsets and policy inclinations among the techno-managerial strata at the apex of Indian society and economy. On balance, however, undue Western pressure was resisted and more than two-thirds of the Indian economy remained closed to Western capital and commodities, just as India’s military strategies remained free of any wish to integrate the country into the West’s strategic designs.

Could this stance in defence of Indian sovereignty in foreign affairs be maintained without fundamentally transforming domestic structures? During that whole period, India made tremendous strides in technological research and scientific education at the upper levels, but only at the apex, on top of mass illiteracy and lamentable levels of primary and secondary education. Brisk industrialisation and the elite farmer strategy in agriculture led to great capital formation and gener-
ation of wealth, which provided the class basis for the eventual turn to neoliberal policies and massive privatisation, but during that period of protectionism as much as in the more recent period of high rates of gross domestic product (GDP) growth, India – the great “rising” and “shining” power – has remained at the bottom of the world development index, alongside the poorest countries of Sub-Saharan Africa and very much in the company of Pakistan and Bangladesh. Almost half the population is still illiterate, and more than half the world’s blind people reside in today’s India.

A question therefore arises: can a starving and illiterate people be in any substantive sense sovereign, the procedural aspects of parliamentary democracy and independence of the judiciary notwithstanding? With respect to the Constitution one can only offer the melancholy judgement that the Sovereign Democratic Republic of India has done reasonably well in terms of implementing the Fundamental Rights but has also, in the same sweep, jettisoned the Directive Principles by and large to the dustbin of history. We do preoccupy ourselves with the liberal-reformist aspects of the Constitution while suppressing its radical promise. No wonder that the present-day liberal intelligentsia, which is both a product and also a beneficiary of this double movement, attaches itself to what are called social movements but not to class politics.

In any predominantly agrarian Third World society, the essential choice is between effective sovereignty of the people – the vast majority of whom are the peasantry and the working poor – and alignment with imperialism. The fundamental failure of the period that we call Nehruvian was its refusal to carry out revolutionary transformation of the countryside and substantive empowerment of the working classes, which could have been the only possible basis for popular sovereignty. That refusal, or failure, meant that full assimilation into the imperialist system could be postponed but not warded off permanently. The onset of neoliberalism in the last decade of the 20th century was a logical result of that earlier failure. That slow-motion economic integration into the global capitalist economy then paved the way for far-reaching reorientation of foreign policy as a whole, leading eventually to growing military integration as well. We have now reached a point where there appears to be an India-U.S.-Israel axis on one side of Asia and a developing India-U.S.-Japan-Australia axis on the eastern side.

As these more recent orientations and axes take shape, it is now difficult to even remember what India once was and potentially could have been. The Directive Principles in any case make now for a sad and nostalgic reading.
The destruction of collective praxis is the expression of an immanent tendency of neoliberal capitalism, which has been abetted by the state and its organs, with the backing of beneficiary classes and groups of the new bourgeois order.

THE fact that India has managed to sustain a multiparty parliamentary democracy for six decades, which has guaranteed to every citizen a certain minimum level of civil liberties and individual rights, is regarded quite rightly as one of its major achievements. The brief episode of the Emergency that interfered with these liberties taught such a lesson to those who introduced it that none has dared to repeat it since then. And the BJP-led government’s attempt at “revising” the Constitution, which would have altered existing democratic institutions, had to be given up even before it had taken off. A certain basic democratic arrangement has thus come to stay, and the people have taken to it with a gusto that brings to grief anyone trying to upset it.

True, there are regions in the country where these liberties exist only on paper. There are also segments of the population, notably the tribal people, whose oppression is not just despite these democratic institutions, but is even carried out through their instrumentality. And, of course, the massive economic and social disparities that characterise Indian society not only remain but are widening at a terrifying speed. The democratic structure that still exists, nonetheless, is remarkable for a society whose caste stratification makes even the institutionalisation of juridical equality nothing short of a revolutionary achievement. The fact that the poor and the oppressed and marginalised groups have been vigorous in exercising their franchise, far more so than the well-to-do urban middle classes, is testimony to the sense of empowerment that, in their perception, the democratic practices have brought them.

And yet, there is an important sense in which democracy has been attenuated in the country during the last few years. This relates to the virtual elimination of collective praxis, which is such a crucial ingredient of any meaningful democracy. The people continue to enjoy the vote and exercise it, but they no longer act together as a collectivity on issues affecting their material life. Collective interventions, from the mere holding of a demonstration to participating in strikes and peasant struggles, have become a rarity. People do act together on issues involving “identity politics”, occasionally even when such politics takes the extreme and dangerous form of communal fascism; they act together for instance in demolishing a masjid or demanding a separate state or demanding or opposing “reservation”. But they do not act together as a collective that transcends ethnic, caste, religious, regional or communal boundaries.

This is striking since such collective praxis had for long been a part of our political life. Indeed, the anti-colonial struggle of this country, of which the
democratic structure we have now is a legacy, was marked by an outburst of collective praxis, even though the tragic denouement of the partition of the country represented a negation of it. Collective interventions, however, continued into the decades after Independence and gave Indian democracy a vim and a vigour that unfortunately it has lost since then.

A few examples will illustrate the point. In Kolkata, in the early 1950s when tram fares were raised by one paisa, there was a remarkable popular struggle against it, led by the then united Communist Party, which succeeded in reversing the increase. Likewise, Kolkata had seen in the late 1950s the famous food movement, for which notable figures like Satyajit Ray had expressed public support. In Mumbai in the late 1960s, when there was an upsurge in prices, not necessarily on a scale larger than what is happening now, housewives had come out on to the streets in large numbers under the leadership of stalwarts like Mrinal Gore and Ahilya Rangnekar, beating their utensils (thalis) in dramatic protest demonstrations. In the early 1970s when inflation had made deep inroads into the living standards of the working class, there were impressive strike actions, including the Locomen’s strike, culminating in the famous railway strike. The raging inflation of the early 1970s was controlled by the Indian state through the expedient, inter alia, of turning the terms of trade against the peasantry, especially after the mid-1970s; but this, in turn, brought forth the massive kisan rallies on the lawns of Delhi’s Boat Club. Collective actions in short were a feature of Indian democracy, indeed its life-blood.

ABSENCE OF MASS ACTION
Starting from the 1990s, however, such mass actions have been conspicuous by their absence. As many as 1,84,000 peasants reportedly committed suicide because of the agrarian crisis inflicted upon them by the neoliberal policies pursued in the era of globalisation, but there were no significant peasant struggles or even kisan rallies against such policies. Leave aside the Telangana or Tebhaga peasant struggles, there were no struggles or demonstrations reminiscent even of a Mahendra Singh Tikait, let alone of Swami Sahajananda Saraswati or Maulana Bhashani of the pre-Independence period. And what is striking about the current period is the quiescence of the people even in the face of perhaps the most severe inflation that has hit the country for a long time, especially in food articles. Nothing expresses the decline in collective praxis as clearly as this quietude.

This “rolling back” of collective praxis is indeed a characteristic feature of “bourgeois democracy”, which, while upholding and defending the rights of individuals, “individualises” all collectivities and thereby disempowers people, including of course the very individuals who are apotheosised as all-powerful, “free” agents. The bourgeois order, while formally upholding democracy, reduces it to a routinised affair involving empirical atomised individuals whose political choice is increasingly between parties that differ little from one another in their programmes. What we have in the neoliberal era, therefore, is a consolidation of bourgeois democracy in the country, which represents at the same time a retreat from the vigorous democracy marked by collective praxis of the earlier period. We are thus advancing to bourgeois democracy by attenuating the democratic content of democracy.

BUILDING CONSENSUS ON NEOLIBERALISM
Indeed the elimination of the residual differences between the programmes of political parties is explicitly presented as an ideal in the neoliberal era. A veritable chorus of voices, for example, from the Prime Minister downwards, advocates that “development must be kept above politics”. Since the very definition of what constitutes “development” is an area of contestation, and hence must involve political conflict, to suggest that “development” must be kept above politics is tantamount to getting a consensus around one particular notion of development, namely that entailed by the neoliberal paradigm. It is to obtain universal acceptance for the neoliberal paradigm, to obviate differences between the programmes of different parties, and hence to reduce politics to a vapid choice, little different from a choice between two alternative brands of detergents. Instead of letting the people have the freedom to choose between alternative agendas that affect their lives, it is to impose upon them one particular agenda around which a consensus has to be manufactured among all political parties. It is in short to attenuate democracy.

Of course, if such an agenda brought benefits to all, then the elimination of choice before the people could, perhaps at a stretch, be overlooked; but the fact is that it does not,
which is attested to by all, including the government itself. Getting a consensus around “development”, therefore, is a plea for an endorsement of neoliberal capitalism, which brings palpable distress to peasants, petty producers and the workers.

The rolling back of collective praxis does not typically involve, to any significant extent, the use of the legislative organ of the state, which, notwithstanding all talk about keeping “development above politics”, has still not insulated itself from the people, as it has to face them in periodic elections. It is the other organs of the state that take a lead in such rolling back. The Emergency was a period when the executive took such a lead, but the salutary lesson learned from that episode has kept the executive subsequently on a leash. Of late, it is the judiciary that has taken the lead in rolling back collective praxis through its pronouncements against bandhs, strikes and demonstrations. The agenda of the consolidating bourgeois order of enfeebling democracy, by shutting out collective praxis, “individualising” the collective, and at best allowing some space to charitably motivated non-governmental organisations as the sole spokesmen of the people, has been increasingly pushed through by the judiciary. This agenda has the enthusiastic backing of significant sections of the urban middle class, who have been the beneficiaries of the neoliberal dispensation, and who, accordingly, look upon the judiciary as a sort of “saviour”.

The decline of collective praxis, therefore, has also been accompanied by a rise in the relative importance of the judiciary compared to the legislature, to which the media has contributed through its demonisation of “politicians” of all hues.

The implicit assumption underlying such judicial activism was articulated by the former Chief Justice of India, Justice R.C. Lahoti, who had suggested that the judiciary stood above the other two organs of the state. But this trend of judicial overreach received a setback when the former Lok Sabha Speaker, Somnath Chatterjee, questioned the Supreme Court’s jurisdiction in the matter of the expulsion of some Members of Parliament over the “cash-for-questions” scam. No matter what future awaits such judicial overreach, the rolling back of collective praxis continues nonetheless.

**INVISIBLE OPPRESSOR**

Of course, why the people allow such a rolling back is a moot point. The fact that capital, especially, finance, is mobile across national borders in the current epoch of globalisation, means an enfeebling of working class resistance, which is necessarily confined to particular nations: any such resistance would drive capital away, causing a financial crisis in the short-run and an investment-cut in the long run, both of which will only worsen the plight of workers. Likewise, agrarian distress that arises not because of the activities of a physically visible oppressor, such as...
as a zamindar or a jotedar, but because of the impersonal working of a distant market, scarcely allows easy collective mobilisation, since even the cause of the distress itself remains opaque for the most part. In short, the neoliberal era has an in-built tendency towards rolling back collective praxis. Such praxis can be revived no doubt through appropriate intervention by political parties, but the task becomes difficult.

Many, of course, would shed no tears over this decline in collective praxis, which they would see, much like the judiciary does, as “anarchy”, as “holding the country to ransom” or as “coming in the way of our high growth rate”; and there is no denying that strikes and bandhs cause inconvenience to others. Indeed, they are meant to cause inconvenience, which is why they are resorted to at all, so that the plight of those engaging in such actions is brought home to all.

There is also no gainsaying that they are often resorted to in situations where they patentely lack justification. But this is a price that has to be paid for democracy, and for collective praxis that is an integral part of democracy. This price must be minimised; but this should happen only through collective praxis itself, as society learns to weed out frivolous, divisive and patently unjustified protests, not through judicial fiat or executive orders, which, in the process of preserving “peace and order”, end up attenuating democracy itself.

**OTHER CONFLICTS**

There is, however, another, far greater, danger associated with the collapse of collective praxis. It tends to get replaced by praxis of a different kind that revolves around exclusive identities, which can be divisive and potentially dangerous. Class mobilisations that cut across ethnic, religious, linguistic and communal groupings and collective praxis based on such mobilisations (which is the sense in which the term has been used here), also keep down ethnic, linguistic, communal and religious conflicts. Retreat from such praxis has the opposite effect, of bringing such conflicts back to the centre stage.

In fact, the problem of Islamist terrorism that the world currently faces is the outcome of the collapse of radical class-based collective mobilisations. The very countries that today are the breeding ground for such terrorism had earlier been characterised by militant, class-based mobilisations. The collapse of such mobilisations has brought Islamist terrorism to the fore.

This collapse, ironically, was in most cases engineered by imperialist intervention, notably by the U.S., which, therefore, has created the Frankenstein’s monster that confronts it today. Whether it is Iraq or Iran or Sudan or Indonesia or Afghanistan, all these countries had vigorous Left movements championing a progressive nationalism around which they mobilised large masses of the people. Coup d’états backed by the U.S. destroyed the progressive forces in every single one of these countries and today they are hotbeds for the nurturing of religious terrorism.

**Islamist terrorism is the outcome of the collapse of radical class-based collective mobilisations.**

The destruction of collective praxis in India has not been brought about by the intervention of imperialism. It has emerged as the expression of an imminent tendency of contemporary neoliberal capitalism, which has, of course, been aided and abetted by the state and its organs, with the backing of classes and groups that are the beneficiaries of the consolidating new bourgeois order. While it has been robbing Indian democracy of its earlier vigour, it has given rise to a triumphalism among these classes and groups about this process of disempowerment of the people. This triumphalism, however, is misplaced, since the destruction of collective praxis here will also create our own Frankenstein’s monsters, not just in the form of religious terrorism, but in other forms as well.

**BIG POWER AMBITIONS**

There is a further strong reason for this. Finance capital is always associated with “big power” ambitions. The successful implanting of neoliberal capitalism in India, in a milieu where finance is the leading element of capital, is bringing in its train “big power” ambitions among our own bourgeoisie.

The frequent references to “the race with China”, which even the Supreme Court has internalised now, and to India’s role as an “emerging global power”, are symptomatic of this. These “big power” ambitions can be realised only through some sort of “adjustments” with the U.S. and other leading capitalist countries. But this also means making common cause with them in their struggles, and hence making their enemies into our enemies.

Besides, all “big power” ambition is anti-democratic. As Karl Marx put it: “A nation that oppresses another cannot be free.” And since the quest for freedom is the essence of all democratic practice, such a nation must ipso facto be abridging its democracy as well. It is no accident that the leading capitalist powers that embarked on the Iraq war did so despite the fact that the majority of the people in their countries were, in most cases, opposed to it. India on its current political-economic trajectory is heading in the same direction, of emerging as “a leading capitalist power”, and becoming a member of the club of “leading capitalist powers”. But emerging as a “leading capitalist power” hegemonising other countries entails a reversal, not only of the vision of our freedom struggle but also of the vigour of our democracy that the freedom struggle had bequeathed to us.
Secularism is not communal harmony; communal harmony is the outcome of secularism. It is, therefore, imperative to explore what constitutes secularism as an ideology beyond harmony.

SECULAR India has undergone several convulsions during the past 60 years, so much so that doubts about its survival were entertained by many. Some of them tend to relate these convulsions to the nature of Indian society, to which they attribute centrality to religion in both personal and public affairs. In such a society, it has been argued, secularism can only have a perilous existence, that too by compromising some of its basic tenets. This view has received academic respectability and political support: the former from those who had no faith in the ability of Indian society for institution building and the latter from those who were inimical to secularism as a political creed.

The scepticism about secularism has only increased in recent times. The defenders of secularism are shrinking and some of them are exploring conditions beyond secularism. The weaknesses of secular practices add fuel to the fire: they confirm the doubts about the relevance of secularism in Indian conditions. At the same time, the unprecedented popularity that religiosity has gained has pushed secularism to the backyard. In assessing the state of secularism today, the impact of growing religiosity as well as the inadequacy of secular practices demand close attention.

CONCEPT OF SECULARISM
All debates about secularism in India occur in the context of the European experience. The church-state relationship, which was central to the development of secularism in Europe, is the starting point of all discussions, both by supporters and by critics of secularism. For the consideration of the Indian situation it is a red herring. What is important in India is not church-state dynamics but state-society relationship and, more specifically, being a multireligious society, relations within society.

The Indian notion of secularism, based on uniform respect for all religions by the state and divorce of religion from public institutional practices, was evolved in the context of this Indian social reality. The obsession with the European experience overlooks the historicity of the Indian phenomenon. The process of secularisation is not necessarily similar in all societies. But all societies, including India, have undergone the process of secularisation at the onset of modernity. The European experience is important, as it was the earliest manifestation, but it does not connote that what happened in other societies is its mirror image.

When this process began in India would be difficult to locate with certainty, but the historical antecedents in which the process is rooted can be traced to fairly early times, possibly to the period of the Buddha. Let it not be misunderstood that what is suggested is that secularism existed at the time of the Buddha, but that Buddhism and the Bhakti movement and other churnings within different religions, being critiques of the then existing religious practices, created the space for secularism to emerge at a later time. Its modern form, however, found articulation and momentum during the course of the 19th century when humanism, rationalism and religious universalism provided the intellectual base for a secular discourse. The Indian Constitution internalised the logic of this discourse to shape it as secular in practice, although the concept of secularism was neither included nor elaborated in the Constitution until a later date. What imparted this character to the Constitution was, at least partly, the historical experience of Indian society.

Whether this concept – popularly described as sarva dharma samabhava – was adequate to ensure a secular state has been a subject of considerable debate. The equal attitude towards all religions does not make the state secular; on the other hand it might implicate the state in religious matters. This fear is not misplaced, as during the past 60 years, in the name of impartiality, the state had to associate...
itself with almost all religions. The consequence was not the equidistance of the state from all religions, but the involvement of the state in the concerns of all religions. Moreover, the state succumbed to the pressures of all religions. Therefore, instead of being secular the state and its apparatuses were mired in religious matters. Jawaharlal Nehru tried to resist this deviation and kept aloof from participating in religious ceremonies. The then President, Rajendra Prasad, did not uphold that principle and attended the consecration of the newly constructed Somnath temple, to the great chagrin of the Prime Minister. Nehru’s legacy was also not owned by his successors, who in their quest for electoral support compromised the state with the demands of religious leaders. The worst phase was the period of the Ram Janmabhoomi dispute when the Prime Minister appeared to bend over backwards to appease religious leaders. Unless the state remains secular, society can never preserve its secular character. With the decline in the commitment of the state to secularism during the post-Nehru era, secular space in society became progressively smaller, which was eventually colonised by communalism.

**IMPACT OF COMMUNALISM**

What affected the secular character of Indian society most decisively was the intervention of Hindu communalism, which has a long history dating to the 18th century even though riots became frequent only during colonial rule. By the 20th century, communalism had made inroads among both Hindus and Muslims, considerably undermining the secular ethos in society and, finally,
leading to Partition. The assassination of Mahatma Gandhi by a Hindu fanatic was a severe setback to secularism. After this Hindu communal organisations were rather dormant, which, however, did not mean they were inactive. The Gandhi assassination did not dampen their spirits, and under the leadership of the Rashtriya Swayamsevak Sangh (RSS) they soon regrouped and reinvigorated their cultural work and physical training.

The communal organisations were aware that communalism could thrive only by undermining secular consciousness. As a result, the main thrust of the communal agenda was to eliminate the fairly powerful secular hegemony present in most domains. The communal attack on secularism was, therefore, intended to delegitimise it, accusing it of being an alien ideology without roots in Indian soil. Moreover, secular activists were physically intimidated and secular artists and intellectuals were defamed. The purpose was to ensure that the public prestige and acceptability that secularism enjoyed was tarnished so that communalism could occupy the secular space. The campaign was not without any impact. In the face of communal aggression, secularism considerably lost out politically in the 1990s. Martha Nussbaum, an American scholar, observed that during this period India slipped into religious terrorism but managed to slip out of it. This ‘escape’ from the possible continued communal subjection was mainly, though not exclusively, because of the strength of its secular tradition.

**SECULARISM AND COMMUNAL HARMONY**

Secularism in India is used as a synonym for communal harmony and religious togetherness. For long, Indian society had a reputation for collaboration and accommodation. The history of India bears testimony to this social condition in which Indians lived for centuries.

They not only shared material resources, but often worshipped the same deity. Hindus and Muslims contributed to the maintenance of each other’s shrines is a fairly widespread phenomenon. In a village in Marathwada where there are no Muslims, the Dargah of a Sufi saint is maintained by Hindus. At Bababudangiri in Karnataka, both Hindus and Muslims worshipped the same saint under different names. The now-popular Hindu shrine of Sabarimala in Kerala has a Muslim ‘deity’ whom all devotees of the Hindu god invariably worship. Although Hindus have now appropriated the Sai Baba of Shirdi, nobody is sure whether he was a Hindu or a Muslim. This mutual relationship is based not on tolerance but on respect for and belief in each other’s faith. Such practices and perspectives were shared by the high and the low – from the rulers to the peasants in the villages.

Communal harmony, however, is not secularism; communal harmony can only be an outcome of secularism, which is a condition in which religion, like any other faith, is a purely personal affair of the individual. It should not intervene in interpersonal relationships or institutional functioning. If secularism is to be a reality, therefore, it is not sufficient to have a secular state, there must also be a secular society. If the society is not secular the state is likely to depart from secular principles, as happened on several occasions during the past 60 years.

The greatest success of communalism has been to vitiate human interpersonal relations in society into a religious relationship, which affected the secular ethos adversely. Social relations thus came to be guided not by secular considerations but by religious identity. The 60 years of experience indicates that the secular character of the Indian state and society has declined steadily.

**RELIGIONISATION AND SECULARISM**

A major and discernible change during the past 60 years has been the rapid religionisation of society. Traditionally, religious rituals were confined to temples, where devotees congregated, or to homes, in which family members participated. Religion is now out in the open, with religious celebrations being conducted in public places and religious processions of all communities crowding the roads with music and fanfare. The improvement in technology has facilitated pilgrimages, and a secular enterprise like tourism has come to be linked with places of religious worship. The resulting commodification of religion is a spectacular change, which has led to the growth of pilgrimage tourism as an industry. As a result, the popular aphorism that India is a religious country does not need much convincing, particularly with the proliferation of meditation centres and godmen. The places of worship have not lagged behind; in fact, the increase in their number is phenomenal. The most saleable commodity in India today is religion.

It is arguable that belief in religion is not antithetical to secularism, if the character of secularism in a multireligious society is essentially communal harmony. It is a common argument that all true believers are secular in outlook and hence do not entertain animosity towards the followers of other religions. This may as well be true. But secularism is not communal harmony; communal harmony is the outcome of secularism. It is, therefore, imperative to explore what constitutes secularism as an ideology beyond harmony.

The real foundation of secularism is poised on a triad consisting of humanism, rationality and universalism. Most religions propound humanism and universalism, but rationality is alien to religion because the essential features of religion are based on faith. Moreover, rituals and superstition derive their legitimacy from religion, and division between religions is marked by religiosity. As a result, religiosity acts as an impediment to secular practice.

A weakness of Indian secularism is that its goal is limited to communal harmony. Even Gandhiji, perhaps the most committed exponent of harmony, could not succeed in his life mission of Hindu-Muslim unity because
his passionate efforts were not backed by a secular foundation in society. Given this historical experience, secularism had to be reinvented in post-Independence India. The possible prescription was a creative combination of the Nehruvian notion of a secular state and the Gandhian idea of social togetherness. Unfortunately, the state increasingly lost its secular character and community relationship slipped steadily into religious antagonism, the sad consequences of which were witnessed in Gujarat and Orissa.

**DEVIATIONS FROM SECULARISM**

Despite limitations and departures, the post-Independence Indian state maintained a modicum of secular character, although for electoral reasons the state made several deviations from the ideal, particularly during the rule of Indira Gandhi and Rajiv Gandhi. The secular character of the state suffered most grievously during the six years when the Bhartiya Janata Party had control over the state apparatuses. The interventions of the state, particularly in education, culture and police administration, were palpably anti-secular. Under its administration the Indian state assumed a distinctly Hindu communal character and used the opportunity to undo the secular traditions of Indian society.

The unfortunate fact is that the ‘secular’ rule that followed has not been able to erase this scar. Moreover, in many of its actions the state continues to carry the anti-secular baggage. Is it not because of that that a Bill for the prevention of communal riots has not been passed? Is it not for the same reason that the recommendations of the Sachar Committee have been kept in cold storage? Or that no action has been taken so far against those who have been indicted by the Liberhan Commission for the Babri Masjid’s demolition after 16 years of its labour?

The more abiding impact of Hindu communal activities has been on undermining the harmonious social relations that existed among different communities. This was attempted through a variety of ways, among them, through communal politics, hate campaigns, falsification of history and instigation of communal riots. Violence is the chief instrument of communalism, which spreads hatred, fear, ghettoisation, and so on, and communal violence is not an end in itself but the beginning of further rift between communities, undermining thereby the existing secular relations.

The secular space has to be reclaimed if India is to remain a democratic society.

During the past 60 years, the activities of communal organisations have been such that Indian society has been ideologically and socially communalised. Moreover, communalism has made society brutal; brutality of the kind perpetrated in Gujarat and Orissa was unknown in the past despite communal riots occurring rather regularly.

The communal advance witnessed during the past 60 years is at the expense of secular space. That space has to be reclaimed if India is to remain a democratic society. Being a multireligious and multicultural society, democracy cannot survive in India without secularism. Are there efforts afoot, both by the state and by civil society, to further the process of secularisation?

After the defeat of communal forces in the general elections of 2004, secularism appears to have been put on the back burner both by the secular parties and by civil society organisations. Understandably because there was a sense of relief that the threat had been warded off. The general elections of 2009 gave enough reason for further complacency because communal forces were worsted in them. But secularism does not come to stay because of successes in an election or two. It has to be assiduously constructed through sustained work; continuity is the key to the creation of social consciousness. The secular forces hardly realise this fundamental factor, but believe that secularism can be fought and won in the political arena.

One of the main reasons for the success of Hindu communalism has been the failure of secularism to intervene effectively in the social and cultural domains, in which communalism is ever active. But secularism is as much a cultural and social phenomenon as a political one. The secular forces have not evolved an agenda based on such an understanding. At the same time, anti-secular forces attribute great importance to the non-political sector.

The agenda of secular forces has neither been innovative nor culturally sensitive to evolve an idiom to communicate with the masses. Much of the secular activity does not go beyond press statements by intellectuals and seminars in which committed secularists alone participate. There is hardly any attempt from secular intellectuals to reclaim popular cultural consciousness. The accusation that the secular intellectuals and cultural activists circulate alien ideas among themselves appears to stick, even if it is not entirely true.

If secularism is to be a force in society, it has to reinvent itself in cultural and social terms. Then and then alone it will be a part of the ideology of the masses. The Hindu and Muslim villagers in Uttar Pradesh and Rajasthan who greet each other with Ram Ram have their own notion of secular interpersonal relations, despite being believers of different religions. Secularism has to internalise the culture of this social relation if it aims to be a hegemonic force in society.

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The term “socialist” was added to the definition of the republic in the Indian Constitution during the infamous period of “internal emergency” through the highly controversial 42nd Amendment, which came into effect on January 3, 1977. However, the terms socialist and its awkward variant “socialistic” were part of the rhetoric of Indian politics from the days of the freedom struggle, and especially in the immediate post-Independence period when the Government of India launched Five-Year Plans and made large investments in industry and infrastructure in the public sector. The Indian National Congress declared its commitment to building a ‘socialistic pattern’ of society in India.

The building of the public sector and the launching of the Five-Year Plans were presented as elements of socialism, and were so perceived by large sections of participants in public discourse and policy debates, including some sections of the political Left, even though the “model” of the economy being implemented through these measures had little to do with the classical conceptions of socialism.

When independent India began its development journey, the world was changing dramatically. In the years immediately following the end of the Second World War, there were three very significant developments. First, all the traditional imperial powers of Europe – “winners” such as Britain and France as well as “losers” such as Germany and Italy – had become greatly weakened, ceding the dominance of the capitalist world to the United States. Second, the socialist system had received a great boost, with several East European nations, China, North Vietnam and North Korea declaring their allegiance to socialism. Third, with the powerful impetus provided by these developments, the ongoing national liberation movements all over the world against the traditional imperial powers succeeded, one after the other, in ending colonial rule and attaining political independence. These three developments – the weakening of the traditional imperial powers, the strengthening of the socialist camp, and the massive wave of decolonisation – provided the international context for the strategy of development adopted in India at the time of Independence.

The national context was characterised by a palpable increase in the militancy of the movements of workers and peasants, especially in the period between 1945 and 1950. There was the tribal land struggle of Warli in present-day Maharashtra led by the legendary Parulekars, Godavari and Shamrao; the Tebhaga movement for increased shares of produce for the sharecroppers in Bengal; the revolt of agricultural labourers and poor peasants in the Madras Presidency (primarily but not exclusively in what is now Kerala and incipiently in the eastern parts of the then undivided Thanjavur district in...

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Since the 1980s, economic policies have moved in a sharply neoliberal direction and signalled a jettisoning of even the limited welfare measures that used to be considered a part of the duty of the state. The Indian economy is best characterised as capitalist with a significant presence of pre-capitalist relations with no whiff of ‘socialism’.

**By Venkatesh Athreya**
present-day Tamil Nadu), highlighted especially by the martyrdom of several militants in Punnapra Vayalar; and the armed resistance of peasants in the Telangana region of present-day Andhra Pradesh. These were among the important instances of rural militancy, but there were struggles of the peasantry in Assam, Punjab and Bihar as well. The strikes of railway workers and Central government employees stood out as instances of urban working class militancy. Then, there was the historic mutiny of the ranks of the Royal Indian Navy.

Both the favourable international context and the highly restive national context played key roles in making necessary and possible a process of relatively autonomous development in which, given the limited development of the domestic business classes, the state was bound to play a major role not just as regulator but as participant. The idea of economic planning for national development and of public investment for this purpose was of course very much part of the nationalist consensus, although the emphasis on the relative roles of industry and agriculture or of mass-scale, modern production systems versus small and cottage industry, and so on, varied within this consensus.

The Congress had constituted a National Planning Committee in 1938 with Jawaharlal Nehru as the chairperson in the wake of the party winning several Provincial Assembly elections held in 1937 under the Government of India Act of 1935, an indication of the importance assigned to national economic planning during the freedom movement.

One must recall, too, the remarkable successes in industrialisation achieved by the Union of Soviet Socialist Republics (USSR) under a regime of state ownership of means of production and central planning in the face of the hostility of the world’s major capitalist powers, which did everything to thwart Soviet development, including denying the USSR access to technology and trade and supporting fascist Germany, subtly and otherwise, as a bulwark against the perceived “Bolshevik menace”.

This, clearly, impressed the stalwarts of the freedom movement, including captains of industry, notwithstanding the reservations they may have had about the social costs of Soviet development.

**KEY ROLE OF STATE**

Thus, both national economic planning and the key role of the state in economic development were part of the national consensus at Independence. Under the circumstances, it was no great surprise that the policies of public investment and import substitution were relied upon by the state to deliver economic growth in the decades following Independence.

However, the political rhetoric notwithstanding, all this had little to do with socialism, but were really part of a politically feasible strategy of capitalist development with a leading role for the “developmentalist” state. The strategy did result in impressive economic growth and some degree of economic modernisation in comparison with the stagnation of colonial rule. Over the period 1950 to 1980, the compound annual rate of growth of gross domestic product (GDP) was 3 to 3.5 per cent. Agriculture also grew at roughly the same rate, enabling, in particular, foodgrains output to grow at a rate higher than that of the population, resulting in a rising per capita availability of foodgrains. However, this growth process hardly constituted ‘socialist’ advance.

In a major compromise that the captains of industry made with the landed gentry, the Indian state proceeded with extreme caution on land reforms and breaking up of the monopoly of landed property. While some degree of abolition of zamindari and absentee landlordism took place and there was, likewise, limited tenancy reform, the basic structural inequality in the distribution of productive assets in rural India, especially land, remained intact.
With the shift, from the mid-1960s, to a new agricultural strategy that laid emphasis on a technocratic approach to enhancing productivity in agriculture, land reform was put on the back burner, and rural asset inequality increased further even as agricultural productivity increased. The countryside witnessed an increasing incidence of wage labour and a large increase in the share of petty producers on the one hand and concentration of productive assets in the hands of a few on the other.

The urban inequality story was no different. The main aim of economic policy was to achieve industrial and economic growth based on the drive for profit on the part of private capital while the state provided the necessary infrastructural and other inputs. Thus, the state provided to domestic industry a considerable degree of protection from external competition, at least up until the economic reforms of the 1990s. It built the necessary financial and industrial as well as human resource infrastructure, financing these efforts by predominant reliance on indirect taxes and on borrowing, even as it offered a variety of tax concessions to the rich in the hope of encouraging investment. The political inability and unwillingness of the state to tax the rural and urban rich to finance public investment on an adequate scale made this path increasingly unsustainable by the late 1960s, especially with the failure to carry out comprehensive land reforms limiting the growth potential of agriculture and rural transformation.

**HIGH RATE OF GROWTH**

The Indian economy grew, in terms of GDP, even faster after 1980, at about 5 per cent per annum in the first half of the 1980s and at 6 per cent per annum in the second half. Its rate of growth over the last decade of the 20th century and the first decade of the 21st has been on an average over 6 per cent per annum compound.

However, this has not meant any reduction in inequality or any resolution of the challenge of meeting even the basic needs of food, clothing, shelter, education and health of the majority of the population.

Since the early 1980s, and more rapidly since 1991, economic policies have moved in a sharply neoliberal direction, limiting the role of the state to that of meeting the demands of private investors and signalling a jettisoning of even the limited welfare measures that used to be considered a part of the duty of the state.

The political rhetoric has also shifted ground, from an emphasis on limiting the concentration of economic power in the hands of a few – signalled, for instance, by the Monopoly and Restrictive Trade Practices (MRTP) Act of 1969 as well as the nationalisation of major commercial banks in the same year – to an unabashed celebration of the power of private profit and an economic policy regime based primarily on attracting private investment as the engine of growth by offering tax and other concessions and promoting policies of globalisation and liberalisation.

**FOREIGN CAPITAL**

The past two decades have also seen a reversal of land reforms of the type that seek to reduce the degree of concentration of land ownership and operation in an effort to promote corporatisation of agriculture. Foreign capital, primarily foreign finance that seeks to make quick profits through playing the stock markets rather than be here for the long haul by setting up manufacturing and other productive activities, has become highly influential in shaping economic policy. Policy is now focussed primarily on retaining the confidence of the foreign investor rather than on responding to the needs of the electorate.

The policies of deregulation, privatisation and globalisation have run counter to the professed goal of building a socialist India. But the point needs to be stressed that the pre-liberalisation strategy of development of the 1950s to the 1970s was also about building a modern, capitalist economy, not a socialist one. The popular myth promoted assiduously in sections of the media and the academe that India followed socialist policies before 1991 and then moved over to capitalist policies – euphemistically referred to as “market-friendly” policies – realising the folly of such policies is exactly that and not at all a reasonable description of the evolution of Indian economic policies since Independence.

While the state remains an important player in the economy today, both in terms of the presence of large public sector enterprises and in terms of the role of governments at all levels taken together as spenders and implementers of various schemes, it is beyond any doubt that the Indian economy is best characterised as a capitalist economy with significant presence of pre-capitalist relations, especially in the agrarian economy, with no whiff of any kind of “socialism”.

While the dramatic changes in the world economy and polity since the end of the 1970s, in particular the rise of international finance capital and the collapse of the USSR and the former East European socialist systems, have played an important part in the transition to neoliberal policies, the logic of a path of capitalist modernisation without comprehensive land reforms inevitably renders autonomous development exceedingly difficult. The result is what we have in India, namely socialism in the Constitution and neoliberal capitalism with agrarian crisis and massive deprivation, unemployment and underemployment on the ground.

An economy in which government accounts for about one-fourth of national output and most of the productive assets are in private hands hardly qualifies as a socialist economy or society. The enormous inequality in the distribution of assets and incomes and the persistence of mass poverty and deprivation confirm that the term socialist in the Constitution remains at best a wish. Such a wish will not be realised as long as the dominance of private capital, domestic and foreign, continues.
OBSERVATIONS of the court, which are not necessary to reach a decision in the case before it, are called *obiter dicta*. They are non-binding elements of the judgment or order of the court even though they may be of persuasive value.

In a recent case, a two-judge Bench of the Supreme Court made stringent observations against the court’s two-decade-old tendency to compromise the interests of workers in order to facilitate economic reforms and globalisation. Although the Bench comprising Justices G.S. Singhvi and Asok Kumar Ganguly couched its observations in general terms, it was obvious that they were expressing their extreme displeasure over the number of judgments rendered by the Supreme Court's bigger Benches, including Constitution Benches comprising five judges, against labour.

In their two separate but concurring orders in *Harjinder Singh vs Punjab State Warehousing Corporation*, pronounced on January 5, Justices Singhvi and Ganguly articulated the pro-labour philosophy of the Constitution in refreshingly lucid terms, even while deciding the case before them in accordance with facts, law and precedents.

Harjinder Singh was employed with the Punjab State Warehousing Corporation (PSWC) as work charge motor mate from March 5, 1986. On October 3 that year, he was appointed work munshi in the pay scale of Rs.350-525 for a period of three months. On February 5, 1987, his pay scale was upgraded to Rs.400-600 for a period of three months. Though his specified tenure ended on May 4, 1987, he was continued in service until July 5, 1988, when the Managing Director of the PSWC issued one month’s notice seeking to terminate his service by way of retrenchment.

Harjinder Singh moved the Punjab and Haryana High Court and obtained a stay on the notice. The High Court vacated the stay when Harjinder Singh wanted to avail himself of remedy under the Industrial Disputes Act (IDA), 1947, and withdraw his petition with the High Court.

Meanwhile, on November 26, 1992, the Managing Director of the PSWC retrenched Harjinder Singh and 21 other workmen by giving them one month’s pay and allowances in lieu of notice under the IDA.

The Government of Punjab referred Harjinder Singh’s industrial dispute to the labour court. Harjinder Singh challenged his retrenchment on the grounds that persons junior to him were retained in service, thus violating the mandate of the IDA. The PSWC, in its reply, contended that he was retrenched because the projects on which he was employed had been completed. On December 15, 1999, the labour court ordered Harjinder Singh’s reinstatement with 50 per cent back wages because the PSWC had violated the principle of equality enshrined in Section 25G of the IDA by allowing persons junior to him to continue in service.

The PSWC challenged the labour court’s award in the Punjab and Haryana High Court on the grounds that Harjinder Singh was not a regular employee and that there was no post against which he could be reinstated. The High Court disapproved the award of reinstatement on the premise that his initial appointment was against the law. The High Court, therefore, substituted the award of reinstatement and 50 per cent back wages with an order to pay Rs.87,582 by way of compensation.

The Supreme Court, in its order, held that the High Court had unjustifiably overturned an otherwise well-reasoned award passed by the labour court, thus depriving Harjinder Singh of what might be called *ex post facto* justice.

Justice Singhvi: “An impression has been created that the constitutional courts are no longer sympathetic towards the plight of industrial and unorganised workers.”

The Supreme Court makes stringent observations against its own tendency to compromise the interests of workers. BY V. VENKATESAN IN NEW DELHI
be the only source of his own sustenance and that of his family. The Supreme Court also found that the High Court had erroneously assumed that he was a daily wage employee.

It would have been sufficient for the Supreme Court Bench to dispose of the case before it by restoring the award of the labour court in favour of Harjinder Singh and ordering the PSWC to pay him legal costs of Rs.25,000, as it did in its order. But, interestingly, the Bench found it necessary to introspect and make several observations that went against the general trend of many anti-labour judgments of the Supreme Court in recent years.

The two-judge Bench might have been constrained to avoid – in view of judicial discipline – mentioning judgments delivered by previous Benches that went against the interests of labour. But the message was unmistakable and amounted to a forceful indictment of the previous Benches.

Justice Singhvi thus observed: “In matters like the present one, the High Courts are duty bound to keep in mind that the IDA and other similar legislative instruments are social welfare legislations and the same are required to be interpreted keeping in view the goals set out in the preamble of the Constitution and the provisions contained in Part IV (Directive Principles) thereof in general and Articles 38, 39(a) to (e), 43 and 43A in particular, which mandate that the state should secure a social order for the promotion of welfare of the people...and also ensure that the workers get their dues.”

The above observations were contrary to what the Supreme Court’s five-judge Constitution Bench held in State of Uttar Pradesh vs Jai Bir Singh (delivered on May 5, 2005). The Bench in this case disagreed with Justice V.R. Krishna Iyer’s pro-labour judgment in the Bangalore Water Supply and Sewerage Board case (delivered by a Bench of seven judges in 1978), and referred it for reconsideration by a larger Bench.

While doing so, the five-judge Bench said: “...The statute under consideration [IDA] cannot be looked at only as a worker-oriented statute. The main aim of the statute as is evident from its preamble and various provisions contained therein is to regulate and harmonise relationships between employers and employees for maintaining industrial peace and social harmony.”

The issue before the Bench was the definition of the word ‘industry’. In the Bangalore Water Supply case, the Supreme Court suggested an expansive definition. Nearly three decades later, the court appeared to be in favour of a restrictive definition in order to exempt many areas of industrial activity from the purview of the IDA and its worker-protective umbrella.

In the Jai Bir Singh case, the Bench further observed:

“It is experienced by all dealing in industrial law that overemphasis on the rights of the workers and undue curtailment of the rights of the employers to organise their business, through employment and non-employment, have given rise to a large number of industrial and labour claims resulting in awards granting huge amounts of back wages for past years, allegedly as legitimate dues of the workers, who are found to have been illegally terminated or retrenched. An over expansive interpretation of the definition of ‘industry’ might be a deterrent to private enterprise in India where public employment opportunities are scarce.”

The observations of the Singhvi-Ganguly Bench assume significance because the nine-judge Bench to reconsider the Supreme Court’s judgment in the Bangalore Water Supply case has not yet been constituted by the Chief Justice of India (CJI). The current CJI, Justice K.G. Balakrishnan, was part of the five-judge Constitution Bench in the Jai Bir Singh case which referred the Bangalore Water Supply judgment for reconsideration by a nine-judge Bench, despite opposition from counsel representing the interests of labour.

At an industrial unit in Gurgaon in Haryana. The court observed that in a large number of cases, relief had been denied to employees falling in the category of workmen who are illegally retrenched from service by creating bylanes and sidelanes in the jurisprudence developed by the court in three decades.
Justice Singhvi recalled that in the 1970s, 1980s and 1990s, the courts repeatedly negated the doctrine of *laissez-faire* and the theory of hire and fire. But, he deplored, that of late there had been a visible shift in the courts’ approach in dealing with cases involving the interpretation of social welfare legislation. The mantras of globalisation and liberalisation were fast becoming the *raison d’être* of the judicial process and an impression had been created that the constitutional courts were no longer sympathetic to the plight of industrial and unorganised workers, he pointed out.

Observers point out that Justice Singhvi perhaps had in mind the five-judge Constitution Bench’s decision in the Uma Devi case in 2006. In this case, the court held that a person who had temporarily or casually got employed could not be directed to be continued permanently. Although he did not specifically refer to this case, his disagreement with the court’s judgment in *Uma Devi* was apparent in this sentence in his order:

“In large number of cases like the present one, relief has been denied to the employees falling in the category of workmen, who are illegally retrenched from service by creating bylanes and sidelanes in the jurisprudence developed by this court [emphasis added] in three decades.”

He continued: “The stock plea raised by the public employer in such cases is that the initial employment/engagement of the workman-employee was contrary to some or the other statute or that reinstatement of the workman will put unbearable burden on the financial health of the establishment. The courts have readily accepted such plea...ignoring the fact that he may have continued in the employment for years together and that micro wages earned by him may be the only source of his livelihood.”

Justice Singhvi reminded the Supreme Court and the High Courts that if a man was deprived of his livelihood, he was deprived of all his fundamental and constitutional rights, and for him the goal of social and economic justice, equality of status and of opportunity, and the freedoms enshrined in the Constitution remained illusory.

Justice Ganguly’s observations were no less forceful than Justice Singhvi’s. He said: “If the judges fail to discharge their duty in making an effort to make the preambular promise a reality, they fail to uphold and abide by the Constitution, which is their oath of office. In my humble opinion, this has to be put as high as that and should be equated with the conscience of this court.”

He emphasised that the court had a duty to interpret statutes with social welfare benefits in such a way as to further the statutory goal and not to frustrate it. In doing so, *this court* (emphasis added) should make an effort to protect the rights of the weaker sections of society in view of the clear constitutional mandate, he said.

Justice Ganguly warned: “Any attempt to dilute the constitutional imperatives in order to promote the so-called trends of ‘globalisation’ may result in precarious consequences. Reports of suicidal deaths of farmers in thousands from all over the country along with escalation of terrorism throw dangerous signal.”

He recalled Rabindranath Tagore’s reference to eventualities that might visit us in our mad rush to ape Western ways of life. He concluded that at this critical juncture, the judges’ duty was to uphold the constitutional focus on social justice without being in any way misled by the glitz and glare of globalisation.

Observers wonder whether the remarks of the Singhvi-Ganguly Bench will mark a real shift in the court’s attitude to labour issues or should be just seen as a flash in the pan.
Half measure

The government takes a step towards speedy trial in cases of sexual offence but stops short of making definitional changes in law. BY T.K. RAJALAKSHMI

The Sexual Offences (Special Courts) Bill, 2010, does not touch the definition of rape under Section 375 of the IPC. The government does not seem to have taken molestation and its consequences seriously enough.

IN the second week of December, as the country watched the developments in the case against former Haryana Director General of Police S.P.S. Rathore, a host of senior government representatives, including Union Law Minister M. Veerappa Moily, promised to review the laws dealing with crimes against women. Moily’s Ministry announced that it would introduce the Sexual Offences (Special Courts) Bill, aimed at ensuring speedy trials in rape cases and including procedural measures to improve the mechanism of delivery of justice. Home Minister P. Chidambaram declared that the police all over the country should be asked to treat all complaints as first information reports, though it was not clear what purpose such an announcement would serve without consultations with the State governments on the issue, since law and order is a State subject.

More worryingly, however, the Law Ministry’s draft Bill (a copy of which is with Frontline) is not an adequate response to the situation it is meant to address. It is no doubt an important step towards speedy trials of sexual offenders: it stipulates that the trial for any sexual offence shall be concluded as expeditiously as possible, preferably within six months. However, it stops short of making the kind of definitional change, recognising the various forms of sexual assault on women and children, that would make a substantial difference. There is also no reference to an already existing piece of draft legislation, “The Criminal Law Amendment Bill 2002”, painstakingly prepared by women’s organisations and vetted by the National Commission for Women (NCW). Planned as a Bill in 2002, though it never reached that stage, this document dealt with the definitional aspects of sexual assault as well as procedural aspects of securing justice for victims. The Law Ministry did not bother to consult either the Ministry for Women and Child Development, the nodal Ministry dealing with women and children, the NCW or women’s organisations. Veerappa Moily assured a delegation of women’s organisations led by Rajya Sabha member Brinda Karat, who met him, that he would discuss the issue with the related Ministries but ignored the fact that a draft had already been prepared by the women’s groups.

DRAFT BY WOMEN’S ORGANISATIONS

The demand for a comprehensive law dealing with sexual assault was first made at least 17 years ago but it gathered momentum in the past decade. The draft by the women’s organisations was initially prepared by former Law Commission member and Supreme Court advocate Kirti Singh; this was then followed by countrywide consultations on the subject, with the NCW taking up the cause. In 2007, a quasi-government report on the magnitude of child sexual abuse further bolstered the demand for a comprehensive law that would cover child sexual abuse.

The government’s decision to respond was at least partly because of the sustained media spotlight on the Rathore molestation case, pressure from sections, including the media, the rising crime graph and efforts by women’s organisations. Yet, it does not incorporate all the changes in the definitional, substantive and procedural laws relating to child sexual abuse (including molestation and rape) and the sex-
ual abuse of women that were demanded by the women’s groups.

These groups, led by the All India Democratic Women’s Association (AIDWA), met Veerappa Moily on January 12. Referring to the 172nd Report of the Law Commission regarding sweeping changes in laws relating to rape, molestation and sexual harassment, they argued that the definition of sexual assault and rape in the Indian Penal Code (IPC) was archaic, restrictive and inadequate.

The organisations, which included the National Federation of Indian Women, the Young Women’s Christian Association of India, the All India Women’s Congress, the Joint Women’s Programme, the Muslim Women’s Forum, the Centre for Women’s Development Studies and the Guild of Service, underscored the immediate need to enlarge the definition of rape to include oral and anal sex. They also pointed out that several forms of sexual abuse, such as incest, stalking and protracted sexual assault, were not even recognised or defined in the IPC.

Moily, according to a member of the delegation, talked more about introducing procedural changes rather than definitional ones. The memorandum pointed out how on several occasions courts had debated on what the expression “outraging the modesty of a woman” meant. A major definitional change would be to replace this expression in Section 354 of the IPC with “unlawful sexual contact”; besides, the women’s groups said, there must be a distinction between the molestation of an adult and that of a child and that the latter should invite more stringent punishment.

DEFINITION OF ABUSE
The fundamental problem is that all kinds of sexual offences barring rape are covered under Section 354. Child abuse involving anal and oral sex is not treated as rape but as molestation. The women’s groups said that “rape” should be redefined to include oral and anal sexual assault and insisted that the punishment in the case of minors, who are often forced or incited to perform sexual acts on adults, should be more stringent.

The Sexual Offences (Special Courts) Bill, 2010, does talk about amendments to the IPC, proposing the insertion of Section 376E defining unlawful sexual contact. But it does not touch the definition of rape under Section 375. The Criminal Law Amendment Bill, 2002, had suggested the full substitution of the existing Section 375 of the IPC, replacing the existing definition with that of a comprehensive one of sexual assault that meant, among other things, not only penile penetration but the introduction, to any extent, by a man of an object or part of the body into the vagina, or anus or urethra of a woman or a child. This also included the manipulation of any part of the body of a child so as to cause penetration of the vagina, anus or urethra. The document also specified stringent punishment for rape, including incestual rape and rape by a person in a position of trust and authority.

Separate punishments were recommended for public servants and policemen and for people running remand homes and jails for committing sexual assault on pregnant women, persons with mental or physical disability or on persons under 16. The recommended provision covered gang rape, persistent sexual assault and assault causing disfigurement or grievous bodily harm to the victim.

The recommended punishment in all the categories was “not less than ten years but which may be for life and also liable to fine”. Under Section 376, the punishment for rape is not less than seven years, extendable to ten years or for life unless the victim is the man’s own wife and not under 12 years of age, in which case the punishment is only for two years. The existing law also gives the right to courts to impose a sentence of imprisonment for a term of less than seven years “for adequate and special reasons to be mentioned in the judgment”.

The document prepared by the women’s groups suggested removing Section 376A and introduced a new Section, 376D, defining punishment
for unlawful sexual contact. This covered various kinds of unlawful sexual contact, including those with a minor, unlike in the government’s draft. Also, it defined a minor as under the age of 16, instead of under 12 as defined in the existing section. It used the word “minor”, while the government’s draft uses the term “young person”.

The document of the women’s groups defined unlawful sexual contact and suggested the punishment for this. It said if “any man with a sexual purpose touches, directly or indirectly with a part of the body or with an object, any part of the body of a woman, without the consent of such a woman, he shall be punished with simple imprisonment for a term which may extend to three years or with fine or with both. The government draft exempts from punishment men for such non-consensual sexual contact with their wives. Its definition of unlawful sexual contact (Section 376E) says: “Whoever, with sexual intent, touches directly or indirectly, with a part of the body or with an object, any part of another person, not being the spouse of such a person, without the consent of the such other person, shall be punished with simple imprisonment for a term which may extend to two years or with fine or with both.”

Even the quantum of punishment differs in the two documents: that of the women’s groups recommend punishment up to five years for unlawful sexual contact with a minor as compared with three years in the government one.

“The government has not taken molestation and its effects, seriously enough,” said Kirti Singh, who is also the legal convener of the AIDWA. The piecemeal approach of the government while looking at laws governing sexual assault has disappointed women’s groups.

**CHANGES IN INDIAN EVIDENCE ACT**
The government’s draft proposes amendments to the Indian Evidence Act, 1872, borrowing, almost literally, from the draft of the women’s groups, but stops short of adopting all its suggestions. For instance, it proposes the insertion of Section 53A in the Act – an amendment that could have been made long ago – with respect to the issue of consent and the character of the victim: “In a prosecution for an offence under Section 376, 376A, 376B, 376C, 376D and 376E or for attempt to commit such an offence, where the question of consent is in issue, evidence of the character of the victim or of her previous sexual experience with any person shall not be relevant on the issue of such consent or the quality of consent.”

But it is silent on another suggestion made by the women’s groups that Section 114A of the Indian Evidence Act be modified on the issue of consent. Their draft suggested that if a person alleged to have been sexually assaulted has stated that it was not with consent, courts were to presume that it was so. The government draft has not incorporated this suggestion, though it has accepted another addition to the Indian Evidence Act – “where the question of consent is in issue, it shall not be permissible to ad-duce evidence or to put questions in the cross-examination of the victim as to her general immoral character, or as to her previous sexual experience with any person for providing such consent or the quality of consent”.

**CHANGES IN LAW RELATING TO POLICE INVESTIGATION**
The women’s groups have welcomed the procedural amendments in the Code of Criminal Procedure (Amendment) Act, 2008, relating to police investigation, medical examination of the victim, videotaping of the statement of a young person and separation of the child victim and the accused in the courtroom.

But this Act was notified as late as December 2009. It stipulates that offences under Section 376 and Sections 376A to 376D of the IPC should be tried, “as far as practicable”, by courts presided over by women judges and lays down the procedure in the case of arrest of a woman, stipulating that an arrested person shall be examined immediately by a medical officer.

It also provides for the recording of a rape victim’s statement at her residence and, “as far as practicable”, by a woman police officer in the presence of the victim’s parents or guardian, or a social worker. There is also a provision enabling the recording of statements/confessions by audio-video electronic means. The Act says, too, that the trial of offences under Sections 376 to 376D, IPC, shall, “as far as possible”, be completed within two months.

The women’s groups have also suggested other procedural amendments such as immediate medical attention and counselling for victims of sexual abuse, particularly children, in view of the trauma they undergo. Expert witnesses such as child psychologists and doctors, they said, should be allowed to depose on the victims’ behalf and children should not be made to give statements repeatedly to the police, magistrates and courts.
Science in the Muslim world

THERE is no such thing as Islamic science – for science is the most universal of human activities. But the means to facilitating scientific advances have always been dictated by culture, political will and economic wealth. What is only now becoming clear (to many in the West) is that during the dark ages of medieval Europe, incredible scientific advances were made in the Muslim world.

Geniuses in Baghdad, Cairo, Damascus and Cordoba took on the scholarly works of ancient Egypt, Mesopotamia, Persia, Greece, India and China, developing what we would call “modern” science. New disciplines emerged – algebra, trigonometry and chemistry as well as major advances in medicine, astronomy, engineering and agriculture. Arabic texts replaced Greek as the fonts of wisdom, helping to shape the scientific revolution of the Renaissance. What the medieval scientists of the Muslim world articulated so brilliantly is that science is the common language of the human race. The 1001 Inventions exhibition at London’s Science Museum tells some of the stories of this forgotten age. Here are my top six exhibits...

The elephant clock

This centrepiece of the exhibition is a 3-metre high replica of an early 13th-century water clock and one of the engineering marvels of the medieval world. It was built by al-Jazari, and gives physical form to the concept of multiculturalism. It features an Indian elephant, Chinese dragons, a Greek water mechanism, an Egyptian phoenix, and wooden robots in traditional Arabian attire. The timing mechanism is based on a water-filled bucket hidden inside the elephant.

The camera obscura

The greatest scientist of the medieval world was a 10th-century Arab by the name of Ibn al-Haytham. Among his many contributions to optics was the first correct explanation of how vision works. He used the Chinese invention of the camera obscura (or pinhole camera) to show how light travels in straight lines from the object to form an inverted image on the retina.

Al-Idrisi’s world map

This 3-metre reproduction of the famous 12th-century map by the Andalusian cartographer, Al-Idrisi (1100-1166), was produced in Sicily and is regarded as the most elaborate and complete description of the world made in medieval times. It was used extensively by travellers for several centuries and contained detailed descriptions of the Christian north as well as the Islamic world, Africa and the Far East.

The Banu Musa brothers’ “ingenuous devices”

The three brothers were celebrated mathematicians and engineers in ninth-century Baghdad. Their Book of Ingenious Devices, published in A.D. 850, was a large illustrated work on mechanical devices that included automata, puzzles and magic tricks as well as what we would today refer to as “executive toys”.

Al-Zahrawi’s surgical instruments

This array of weird and wonderful devices shows the sort of instruments being used by the 10th-century surgeon al-Zahrawi, who practised in Cordoba. His work was hugely influential in Europe and many of his instruments are still in use today. Among his best-known inventions were the syringe, the forceps, the surgical hook and needle, the bone saw and the lithotomy scalpel.

Ibn Firmas’ flying contraption

Abbas Ibn Firmas was a legendary 9th-century inventor and the Leonardo da Vinci of the Islamic world. He is honoured on Arabic postage stamps and has a crater on the moon named after him.

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THE New Year brought welcome news from the Maharashtra government when it announced its plan to invest Rs.2,000 crore in agriculture in the State. But the elation faded when it came to be known that the money would reach farmers in an indirect way, via agricultural infrastructure, and that it had been borrowed from three international agencies – the International Fund for Agricultural Development (IFAD), the World Bank and the Asian Development Bank (ADB). This is the largest ever loan taken by the State for agriculture.

Of the total amount, Rs.600 crore is from the IFAD, Rs.650 crore from the World Bank and Rs.750 crore from the ADB. The State has 25 to 35 years to pay back the money at different interest rates. Fifty per cent of the World Bank loan is to be paid back at 4.54 per cent interest and the remaining at 0.75 per cent. While the terms of the ADB loan are yet to be decided, the IFAD loan comes at 0.25 per cent interest. Each agency will concentrate on specific areas. The IFAD will work solely in the six suicide-affected districts of Vidarbha and concentrate on the convergence of agricultural intervention in which private companies will take on end-to-end projects, that is, they will be involved from the farm to the market. It is essentially an anti-poverty project.

The World Bank will work to introduce competition in markets. Dr S.K. Goel, Principal Secretary, Cooperation and Marketing, Government of Maharashtra, said this would ensure that Agricultural Produce Marketing Committees (APMC) did not act as a monopoly, farmers would be provided with a multiplicity of marketing channels, and the corporate sector would also be a part of the process. The ADB will focus on agri-business infrastructure development.

All the agencies will coordinate with the Departments of Agriculture, Horticulture, Animal Husbandry, Dairy and Fisheries. The projects are expected to be completed in about eight years. Goel explained that the ultimate aim was to address the three main areas of concern in agriculture today – adequate food production, greater access to markets for the produce, and good marketing options for growers.

But, getting to the core of the issue, Dr Ashok Dhawale, vice-president of the Maharashtra Kisan Sabha and State secretary of the Communist Party of India (Marxist), said, “If resources had been properly mobilised in the last 50 years this loan would not have been required.”

His views are substantiated by a former State Planning Board member, who said: “To a great extent the announcement is an acceptance that the state has failed its farmers. I would like to look at the brighter side and say it is money coming in, but I fear that farmers may remain in the debt trap.” Dhawale, who has worked with farmers and on agricultural issues for more than 15 years, said the most shocking aspect of the agricultural crisis was the suicide by farmers. “[Some] 40,000 farmers have died in Maharashtra – it is the highest in the country. Any such loan should tackle this. Farmers essentially need three things – remunerative prices for their produce, irrigation and subsidies.”

According to Goel, the goals formulated are in keeping with the aims of the agricultural reforms of 2006-07. But Dhawale differs. “Right from 1991, the policy has been skewed. It is borne out by the fact that the National Crime Records Bureau shows that in the decade from 1997 to 2007, about 1,82,000 farmers killed themselves. All the suicides started from 1995-96. This didn’t happen even during the British rule or in the first 40 years of Independence.
This so-called reform is targeted at decimating farmers. SEZs [special economic zones] are a component of this ‘reform’. How is it agricultural reform if you take away land from farmers? It is nothing but the government shedding its responsibility,” he said.

Dr Ratnakar Mahajan of the Nationalist Congress Party (NCP) and until recently the Executive Chairman of the Maharashtra State Planning Board also disputes the belief that the reforms should be corporate-centric.

“Any investment in agriculture should take care of the delivery of inputs to farmers at affordable rates and giving them market support which would enhance the family’s income. That is the meaning of reform in agriculture. Reforms need to be farmer-centric and not corporate-centric.” But so deeply entrenched is the government’s belief in private investment in agriculture that even agricultural research has been farmed out to private companies.

At the same time government expenditure on agriculture has been decreasing and this, Dhawale says, is the reason for the agricultural crisis.

Goel is firm that “farmer’s needs with the private sector are huge” and though Maharashtra has nine private markets and has 100,000 hectares of land under contract farming, private enterprise is wary of investing in agriculture. He explained this by saying that “corporates see agriculture as uncharted, politically sensitive territory”.

Though in favour of corporate involvement in agriculture, Goel feels that contract farming is not the way to help the State’s farmers. The solution, he says, lies in partnerships. At the grass-roots level, farmers want to form their own groups. At the next level, they need help in terms of cold storage facilities and transportation to markets. And at the final level, growers want assistance from the corporate sector because “corporates have a brand and that gives the consumer confidence and helps in sales”. What may sound like a simple three-tiered process is, Goel says, “not happening in
An area of concern is that the huge loan is meant to benefit only about 30 lakh of the State’s farmers. A lot depends on the short-listed NGOs who will be organising farmers into groups. Since irrigation is a completely separate department and is not involved in this project in situ, soil and water conservation will be a point of focus. The farmers will also have to make a financial contribution.

Any infrastructure development – greenhouses, cold storage, transport – will only be subsidised by 25 per cent. The beneficiaries will have to raise the rest. In case of a drought or a failure of the monsoon, Goel says there is a “risk mitigation strategy consisting of a pledge loan scheme in which farmers will have to pledge their harvest”.

This seems to be the big snag in the scheme. How many small farmers will be able to afford the 75 per cent contribution? “Only rich farmers will be able to afford this. The scheme is nothing but a change for the already fortified to further fortify themselves,” said Dhawale.

Drawing on past experience, Dhawale said loans were often a way of “making the rich richer”. He said that a lion’s share of the agricultural infrastructure was likely to go to areas in western Maharashtra. “It has usually happened that the rich farmers channel all benefits their way. Even in the case of the loan waiver by the Central government, all those who had taken loans in western Maharashtra benefitted the most. The poor farmers in the rest of the State were excluded because the terms of the waiver excluded those who had more than five acres of land.”

The incongruity arose because rich and poor came to be defined solely by the amount of land owned and not by the quality of the land or access to irrigation. Western Maharashtra is almost totally irrigated and so farming on less than five acres is profitable whereas farmers in the rest of the State have practically no irrigation. These dryland farmers need more acreage to make a profit out of farming. Though their need was greater they were excluded from the loan waiver scheme.

It is facts like this that “cast a pall over such schemes”, according to the former Planning Board member. “Eighty per cent of the State depends on agriculture. How can the State government come to a pass where it has to borrow money to look after three-fourths of its people? Why have they been ignored so far? And nothing is coming free to the farmers. They have to borrow money from banks to build their infrastructure. To say that they will get loans easily because they are part of a World Bank project does not solve their problem of paying back the loan. And ultimately the State also has to pay back these agencies. Where will all this money come from?”

What benefits this vast investment will ultimately bring and how it will improve the beleaguered lives of farmers will only be known in the next couple of years. For the moment, the Rs 2,000-crore investment, which could have been the light at the end of an exceptionally dark tunnel for Maharashtra’s 1.3 crore farming families, is termed by Dhawale as “a very dangerous type of new landlordism... one which comes in through the back door under the garb of liberalisation”.

An area of concern is that the huge reality”. The sticking point seems to be the second level of the partnership, and the Maharashtra government has a new plan to involve non-governmental organisations (NGOs). In the IFAD project, 34 facilitating NGOs have already been identified. Their mandate is to be the link between the farmer and the private player. The NGOs will have to first organise farmers into groups in much the same way that is being done in Kerala by centres that organise fruit and vegetable processing at the village level. Dhawale, however, believes that a better way would be to mobilise local government bodies such as the gram panchayat or farmers’ groups themselves.

One success story is about three particular groups of farmers in western Maharashtra who cultivate exotic vegetables. Weary of waiting for government intervention in marketing, they took the initiative some years ago to sell their produce directly to bulk consumers and hoteliers. When these groups from Pune, Ahmednagar and Solapur made a success of their direct marketing venture they caught the attention of the World Bank, which was interested in exploring alternative marketing techniques for agricultural produce.

To the Bank’s query as to what they required, the farmers, who had been beseeching the government for a long time, replied: Provide us access to finance, cold storage facilities and markets. Goel says they asked for further reforms in terms of more transparency in the working of the APMCs and more involvement of private sector players.

While the lending agencies seem to tailor the loan to the requirements of the farmer, Dhawale says it is just carrot on a stick. “Their strategy has always been to give loans so that they can drive agriculture in a certain way and that way is privatisation of electricity, of irrigation, of infrastructure and finally of agriculture. This is their development trajectory. Once the private sector buys up land how can a small farmer be expected to compete with him?”

SARASWATI AMBERWAR WITH her daughters in Yavatmal district. A 2007 picture. Her husband’s was one of the first Vidarbha farm suicides to be highlighted in the media.
Hidden apartheid

A recent survey carried out by the TNUEF brings to light details of the discrimination Dalits in Madurai have faced for generations. BY S. DORAIRAJ IN MADURAI

The most pressing problem is residential segregation. Their habitations, which come under 19 major slum clusters, are spread over many of the city’s 72 wards, including the ones represented by the Mayor and the Deputy Mayor.

OVER seven decades have rolled by since the freedom fighter A. Vaidhyanatha Iyer successfully led Dalits into the Meenakshi temple in Madurai, overcoming all the impediments posed by the casteist forces that were hell-bent on thwarting the historic event. But the stark reality is that “hidden apartheid” against Dalits continues in different areas of this famous temple city, not to speak of the prevalence of untouchability in several villages in Madurai district.

An extensive survey of 21 Dalit habitations by activists of the Tamil Nadu Untouchability Eradication Front (TNUEF) has brought to light the discrimination that Dalits living in the city have faced for generations. The findings explode the myth that discrimination is experienced by Dalits only in isolated villages and that the evil practice is on the wane. But the political parties except those of the Left by and large maintain a stoic silence on the issue.

Releasing the report of the study on December 18, 2009, P. Sampath, State convener of the TNUEF, said Dalits in Madurai city were haunted by problems such as poor health and unhygienic living conditions. They also lacked proper housing, a proper environment for education, employment opportuni-
ties, financial assistance for self-employment and social mobility, and faced delays in the disbursement of welfare assistance, including old-age pension, he said. Non-issuance of pat- tas for those who have been residing in the city for more than three decades is another issue highlighted by the organ- isation. The plight of sanitary work- ers, those working in cremation grounds, and cobblers who belong to the Arunthathiar community has also been brought to light.

Interactions with a cross section of Dalits, trade union functionaries, ac- tivists of non-governmental organisa- tions, and experts on various related areas confirmed the veracity of many of the findings. The most pressing problem faced by Dalits is residential segregation. It may be a rude shock to the city’s many visitors that Dalits, who form a little less than 10 per cent of its population of over 1.1 million, by and large live in segregated colonies. These habitats, which come under major slum clusters, including Aruldoss- puram, Sellur, Munichilai, Thideer Nagar, Sathamangalam, Anuppanadi and Villapuranam, are spread over many of the city’s 72 wards, including the ones represented by the Mayor and the Deputy Mayor.

There is ample evidence to show that Dalits are not recent settlers. The location of the major Dalit habitats just outside the four gateways – Mela- vaalai, Keezhavaalai, Therkuvavaal and Vadakkuvaalai – clearly indicates that during the Nayak period (the 16th and 17th centuries) itself they lived on the outskirts of the town, a senior ar- chaeologist told Frontline. These areas are now prime locations in the city, thanks to its expansion. According to him, the Arunthathiar community has been parting the entourage of Viswanatha Nayak in the 16th century A.D. and settled on the outskirts of the town at the fort, moat and gateways were developed during this period. Old revenue records also speak of “Pallar Mayanam” (burial ground of Pallars), which existed near Palanganatham, he pointed out.

A sizable number of slum-dwellers are sanitary workers who belong to the Arunthathiar community, which is at the bottom of the caste hierarchy. Others are daily-wage earners such as manual workers, ragpickers, hawkers, load men and rickshaw pullers.

Even in slums that have mixed populations, the dwelling units of Da- lits are confined to clearly demarcated streets. A classic example is the slum at Thathaneri, where streets have been named after the sub-sects of the Scheduled Castes. Even in official records such as family cards issued by the Civil Supplies and Consumer Protec- tion Department, a street where Dalits reside has been referred to as “Pallar Street” though it was officially re- named long ago. Some public distribu- tion outlets have been named “Harijan cooperative fair price shops” as men- tioned in the family cards.

“There is a point in Dalits prefer- ring to live in habitats where their neighbours are from the same commu- nity. They still feel insecure if they move out of these habitats. This tendency only shows that urbanisation has not helped them shed the feeling of insecurity. Urbanisation is not a pan-acea for the problems of socially and economically deprived sections,” said B.S. Chandrababu, general secretary of the South Indian History Congress. He feels that the Left and progressive forces should spearhead the campaign to end all forms of discrimination against Dalits.

Dogged by problems such as poor water supply and sanitation facilities, high population density and poor in- frastructure, Dalits have to coexist with pigs and stray dogs in most of these crowded slums. These habita- tions fit in with the definition of slums under Section 3 of the Tamil Nadu Slum Areas (Improvement and Clea- rance) Act, 1971. They are “(i) in any respect unfit for human habitation” and are “(ii) by reason of dilapidation, overcrowding, faulty arrangement and design of such buildings, narrowness or faulty arrangement of streets, lack of ventilation, light or sanitation facili- ties, or any combination of these fac- tors, detrimental to safety, health or morals....” Almost all the houses in these slums are arranged in narrow lanes and each has a single room with a built area of 10 × 10 feet or less. It may sound odd but is, nevertheless, true that each accommodates around 10 people as Dalits, particularly Arun- thathiaris, have been forced to adopt the joint family system owing to lack of space in their habitats.

Although slum-dwellers who be- long to communities other than the Scheduled Castes also suffer owing to a lack of civic amenities, they at least enjoy a social status and do not have to worry about the caste stigma if they shift to better residential areas. But in the case of Dalits, seeking alternative accommodation outside these ghettos is not simple as non-Dalits are reluct- ant to sell or rent their houses to them, said M. Thangaraj, convener of the dis- trict unit of the TNUEF. Even as exor- bitant real estate costs deny Dalits access to decent housing, their plots do not fetch the same market price as those of non-Dalits in adjacent areas, according to K. Swaminathan, general secretary of the south zone unit of the All India Insurance Employees’ Association.
The slum has as many as 2,000 households. A vast majority of them have not received house site pattas though they have been there for more than 30 years. “Though an underground drainage pipeline has been laid here, because of the non-provision of connections to individual houses there has not been any improvement in the sewer system,” said A. Pandi, a resident of S.M. Colony. M. Pandiammal resides in P.T. Colony with her husband and four grown-up children. Cooking ragi outside her house near an open sewer, she said: “We don’t have space for cooking or keeping our things. We ask our children to sleep outside the house. The Slum Clearance Board authorities have not issued pattas on the grounds of non-clearance of dues.” In all these slums, the narrow, overcrowded lanes between the rows of houses are used by the residents as bathrooms and storerooms. “The open drain running around the slum breeds mosquitoes. Congestion and lack of air and light also add to our woes. During the monsoon, the situation becomes worse as the whole area is inundated and sewage mixtures with drinking water,” said M. Kaliyammal, a resident of S.M. Colony.

The situation in Gomespalayam, which is in the ward represented by the Deputy Mayor, is in no way different from that of the other slums. M. Leela, wife of a Corporation sanitary worker, said that her family, which included four children and six grandchildren, lived in an 8×10 feet room. Bathrooms constructed by the Corporation in the slum have been abandoned because there is no water supply to them. Drinking water is supplied to the area only from 5 a.m. to 7 a.m. As the open sewer in the slum gets clogged with silt every now and then, residents remove the silt using iron buckets.

The residents are sceptical of the Corporation authorities’ proposed plan to shift them to another place so that tenements can be constructed by the Slum Clearance Board. They do not want the confusion that prevailed during the allotment of 240 newly constructed tenements at Thideer Nagar to happen in their case also. They described the travails of the displaced people of Thideer Nagar who were provided temporary shelters at Villapuram.

The conditions at Heera Nagar close to Kiruthamal Nadhi, a huge drainage canal in the Melavaaal area, are appalling. The residents have no option but to tolerate the stench of sewage and the garbage dumped on either side of the canal. The authorities have not yet taken up work on the project to build a wall along the canal to prevent flooding. Thangaraj pointed out. The slum at Subramaniapuram, which is part of the ward that elected the Mayor, is also in bad shape. Around 450 households in the slum wait for house site pattas. Over 1,500 people reside in Madurai Municipal Corporation Colony, which has only 90 houses constructed in a small area for sanitary workers of the civic body.

Open drains and heaps of rotting waste make life miserable for the residents of the Thandalkaranpatti slum. “In our area, mosquito repellents don’t work,” said M. Sumathi, who belongs to the Arunthathiar community.

Referring to reports that Tamil Nadu ranks first in urbanisation among the 15 major States in the country, experts point out that unchecked and rapid urbanisation has presented the civic administration with the formidable challenge of having to tackle issues such as pollution and the growing demand for resources and space. Slum-dwellers in general and Dalits in particular bear the brunt of the onslaught of urbanisation in Madurai. In a city where 450 tonnes of garbage is generated every day, the absence of an effective primary collection mechanism, the inadequacy of dumping yards and the lack of scientific disposal methods have added to the woes of these people.

Another major problem encountered by Dalits is the inadequate number of community toilets in the slums as none of their houses has individual toilets. There are around 480 toilets including 220 “pay and use” toilets. Almost half of them are defunct owing to poor maintenance. Many of the free toilets have been made deliberately non-functional by the contractors who were collecting fees for use of the pay and use toilets, activists of the TNUEF said.

The number of toilets built by the Corporation is far lower than the number required. Open-air defecation, particularly by children, is a common feature in the slums as daily-wage earners and sanitary workers have to spend around 25 per cent of their earnings just to use the toilet complexes. A fee of Rs.3 has been fixed for using latrines, and bathing at least once a day entails payment of another Rs.3, said G. Jeyaraj, founder of the Annai
WALLS of caste bias and hatred, however mighty they are, will crumble and collapse if the oppressed sections resist them with the support of progressive and secular forces and the government responds to their protest. This was demonstrated yet again in Tamil Nadu on January 30.

In May 2008, a wall that segregated Dalits from other communities was removed at Uthapuram, a village in Madurai district (Frontline, June 6, 2008). The wall that met with the same fate this time was one constructed by some caste Hindus about two decades ago right in the heart of the industrial city of Coimbatore to deny 120-odd Dalit families access to a thoroughfare. The demolition was done by authorities following the intervention of the Tamil Nadu Untouchability Eradication Front (TNUEF).

U.K. Sivagnanam, convener of the TNUEF’s district unit, said that caste Hindus had constructed the wall across the 30-foot-wide Jeeva Road which connected a colony occupied by members of the Arunthathiar community, named after ‘Periyar’ E.V. Ramasamy, to the arterial Kamara Road. It was built soon after house site pattas were issued by the government to 58 families in the colony in 1989, he said.

To scuttle any attempt to smash the barrier, the caste Hindus had put up a shed with an asbestos roof near the wall. With the help of some activists of the Sangh Parivar, they also installed a Vinayaka idol in this shed, said Kovai Ravikumar, a functionary of the Aadhith Tamizhar Viduthalai Munani (ATVM).

This was not the first attempt by the caste Hindus to prevent Dalits from using public roads in the vicinity. Earlier they had raised a wall across Netaji Road, adjacent to Periyar Colony. Although some of the colony’s residents were able to demolish it 20 years ago, they faced a police case and were acquitted only recently, he said. Since then, they have kept a low profile. Even when the wall came up across Jeeva Road, they remained silent.

However, in the last couple of years, activists of the ATVM submitted petitions to the Collector and the municipal authorities on the issue of the attempts being made to curtail their movement but to no avail.

Things took a dramatic turn after a convention held by Arunthathiar organisations in Coimbatore on January 24 to express their gratitude to the Communist Party of India (Marxist) for the initiative it took in persuading the Dravida Munnetra Kazhagham government to announce a 3 per cent quota for the Arunthathiar community within the 18 per cent reservation for the Scheduled Castes in the State. At the function, Ravikumar highlighted the issue of the “caste wall” and appealed to the leaders of the CPI(M) and the TNUEF to take up the matter with the authorities.

Functionaries of the TNUEF and the CPI(M) visited the spot and sought the intervention of the authorities, including the District Collector and the Commissioner of the Municipal Corporation, Sivagnanam said. The State government advised the district administration to act without any delay.

A team of revenue, police and Corporation officials visited the scene and verified relevant records, which showed that the wall and the shed were illegal structures. The wall was demolished immediately by Corporation personnel using a digger and crowbars.

But some activists of the Hindu Makkal Katchi (Hindu People’s Party) prevented the Corporation per-

Teresa Rural Development Trust (ATRDT). For a family of five with a single breadwinner, this will work out to Rs.30 a day, whereas the real monthly income is Rs.3,000-4,000.

The Corporation should have appointed a minimum of 4,400 sanitary workers to satisfy the accepted norm of one sanitary worker for every 400 people in a city, said Rajagopal. Reluctance on the part of the authorities to increase the workforce has resulted in Arunthathirs performing the job of scavengers at hotels, hospitals and other private establishments for meagre wages. In certain areas, they have been asked to skin carcasses. In some areas, they have to do manual scavenging too, said N.P. Ramesh Kannan, an activist of the TNUEF. Though non-Dalits are recruited for the post of sanitary workers, they are given other jobs such as office assistants, Rajagopal alleged. At some tea stalls, sanitary workers are served tea in disposable plastic cups, he said.

According to Rajagopal, several of the preconditions laid down by the Tamil Nadu Adi Dravidar Housing & Development Corporation for the provision of loans and financial assistance to Dalits have facilitated the entry of middlemen. They have also paved the way for these deprived sections to walk into the debt trap set by private moneylenders, who charge exorbitant interest, he said. In the event of non-repayment of loans, women suffer insults and humiliation at the hands of these moneylenders. He also called for proper monitoring of the schemes being implemented to improve the welfare of Dalits and to improve the infrastructure in their habitations.

The unhygienic environment in the slums often results in health problems. Official sources admitted that
against the sanctioned strength of 2,700 sanitary workers, only 1,847 were working and that the Corporation attempted to manage the situation by appointing 115 contract labourers and 681 workers on daily wages. Even for its regular sanitary workers, the Corporation has constructed only 200 one-room houses.

The Corporation caters to the health needs of slum-dwellers through its 17 urban health posts and 17 maternity dispensaries, besides conducting health camps periodically, the sources claimed.

Education is another grey area. The dropout rate among Dalit schoolchildren is high. This is more so in the case of Arunthathiar children owing to the daily routine of their parents. A study conducted recently by the ATRDT found that 96 per cent of Arunthathiar children were admitted to Standard I in Corporation schools. However, the number dwindled to 60 per cent in Standard V and 45 per cent in Standard VIII. Around 20 per cent did not go beyond Standard X. Only a small percentage of children from this community proceeded further, finished Standard XII and joined colleges. The sudden death of the breadwinners of families also contributed to students abruptly discontinuing their studies as in the case of Kamar of Subramaniapuram, who chose to help his mother, a conservancy worker, after his father’s demise.

Highlighting the problems faced by the wards of Dalits, S.K. Ponuthai, joint convener of the district unit of the TNUEF and secretary of the All India Democratic Women’s Association’s Madurai district unit, said that sanitary workers had little time to spare to take care of their children’s education as their daily routine involved leaving the home before 5 a.m. “That is why we demand the introduction of a shift system for sanitary workers. This will ensure that at least one parent is at home to help the children leave for school on time,” she said.

Even those children who score good marks in Plus Two find it difficult to enter the portals of higher education institutions, particularly those in the private sector, because of the huge fees levied by them. M. Murugan of Thandalkaranpatti holds diplomas in catering technology and electronics. Though he registered his name at the employment exchange 10 years ago, he is still waiting for a call letter. He ekes out a living by running a roadside eatery.

D. Alagammal, daughter of sanitary worker Valli of Karumbalai, recalled with gratitude the exemplary role played by her mother in enabling her to become a graduate against all odds. Having completed her BEd course a couple of years ago, she is waiting for the call letter to fulfil her dream of becoming a schoolteacher. P. Karthik of Subramaniapuram Colony, who has just completed his BA, aspires to become a lawyer. Candidates like them have to grope in the dark in the absence of proper counselling.

The TNUEF has decided to launch a sustained campaign to highlight the problems of the Dalits of Madurai in general, and it is striving to set up a coaching centre to help students of this deprived community in their educational pursuits, according to a spokesman of the organisation.
FEBRUARY 26, 2010

IT is somewhat unusual that a Supreme Court order should result in the launch of a major technology mission in the country. But the mission WAR for Water, which Prime Minister Manmohan Singh highlighted in his inaugural address at the 97th session of the Indian Science Congress in Thiruvananthapuram, is actually the consequence of a Supreme Court directive. The apex court’s Bench comprising Justices Markandey Katju and H.L. Dattu issued the directive on April 28, 2009, in a matter of public interest litigation (Writ Petition (C) No. 230 of 2001) by M.K. Balakrishnan and Others against the Union of India and Others.

The petition related to the conservation of wetlands for protecting the environment and maintaining the ecology. However, the court, observing that one of the chief causes for acute water scarcity in the country was the failure to conserve waterbodies, expanded the scope of the petition suo motu to address the problem of water shortage. Accordingly, it directed the government to constitute a committee of scientists specialising in the field within two months and find out technical solutions to water-related problems on a war footing.

COURT’S ORDER
In particular, the order directed the committee to (i) find out inexpensive methods of converting saline water into fresh water; (ii) find out methods of harnessing and managing monsoon rainwater; (iii) manage flood waters; (iv) do research in rainwater harvesting and waste water treatment so that water may be recycled; and (v) recommend any other methods, including those for the protection and preservation of wetlands and related issues.

The court also said that the committee should be given all financial, technical and administrative help by the Central and State governments. The mission – Winning, Augmentation and Renovation (WAR) of water resources – is essentially the Ministry of Science & Technology’s plan of action on the above fronts.

While awarding the judgment, the Bench recalled a judgment given on March 26, 2009, by Justices Katju and B. Sudershan Reddy in an inter-State water dispute between Orissa and Andhra Pradesh. In that case, Justice Katju observed that while tribunals played a role in resolving such inter-State disputes to a certain extent, they had not resolved, and cannot resolve, the water shortage problem permanently, which only the application of science could do.

SCIENTIFIC SOLUTIONS
The order accordingly recommended that the Central government immediately constitute a body of eminent scientists in the field who should be requested to find out ways and means of solving the water shortage problem. The order of April 28, 2009, though essentially the same, had the additional directive that the said committee of eminent scientists be chaired by the Secretary of the Ministry of Science & Technology.

WAR is thus one more mission to address issues related to water besides the Rajiv Gandhi National Drinking Water Mission (RGNDWM), which was launched in 1987 as one of the five technology missions spearheaded by Sam Pitroda. It was given this name in 1991. The water mission was proposed as one of the eight missions to be launched as part of the National Action Plan on Climate Change (NAPCC), announced by the Prime Minister’s Council on Climate Change in July 2007. The former is under the Ministry of Rural Development and the latter is under the Ministry of Water Resources and both of them have R&D and technology components.

While there would certainly be overlapping areas in the ambit of these three missions, their perspec-
tives and thrusts are intended to be different. Besides, the Department of Science and Technology (DST) has a programme called Water Technology Initiative that was launched in 2007 to fund R&D projects in the field. Various national R&D laboratories and other institutions, including non-governmental organisations (NGOs), have been engaged in developing technology solutions for water-related problems.

**UNCOORDINATED EFFORTS**

The plan document of mission WAR notes that the apex court’s initiative arose from its observation that the research on water currently being done in several institutions and agencies of the country was largely uncoordinated. This is also evident from the fact that despite years of R&D effort in the field, solutions that have emerged are, by and large, technology demonstrations on a pilot or small scale with no visible impact on a large scale. There has been inadequate attention to scaling up the developments to commercially viable processes and products.

From this perspective, it is indeed curious that the court sought to issue the directive to the Ministry of Science & Technology rather than the Ministry of Water Resources or some other agency, which was associated with the earlier missions. The apex court’s objective in issuing such a directive would, therefore, seem to be to establish a systemic process by which viable technical solutions that can be deployed on a large scale are identified and implemented.

As per the drawn-up plans, the mission is expected to be completed by July-August 2011 with a set of planned deliverables. According to the document, the project activity will conclude with a report indicating the nature of water problems in different parts of India and the matching technologies and associated management prescriptions for solving them. The court order also stated that the case would be monitored, for which purpose the matter would be listed to be heard every alternate month when the chairman of...
the committee would be required to personally submit to the court a progress report on the actions taken on the directive. In accordance with the court order that emphasised the urgency of the issue, the mission has progressed swiftly and purposefully.

**TECHNICAL EXPERT COMMITTEE**

A 23-member Technical Expert Committee (TEC) was constituted and notified on June 29, 2009. As required by the court, a Committee of Eminent Scientists (CoES), drawn both from India and from abroad, including non-resident Indians (NRIs), has also been constituted to serve as an advisory council to the WAR mission. The committee will also review the overall performance of the mission and recommend proactive measures, including mid-course corrections based on R&D inputs and technological developments elsewhere, during the mission period. A panel of 20 experts has also been set up for wider consultation on specific technical issues from time to time.

The concept plan for the mission was evolved between April and July 2009 and the plan document was readied by July 2009 and submitted to the court at the next hearing on August 11, 2009, by T. Ramasami, the DST Secretary, in person. The second update to the court was submitted on October 20, 2009, as per the court order. The third one is due on January 27. The Centre has responded to the court’s directive to extend the necessary financial and administrative support with an extra-budgetary allocation of Rs.145 crore for the two years that the mission is projected to last.

**INNOVATIONS**

The document says, “There have been several innovations under real field conditions in India already. Some of these innovations will be evaluated for replication under similar social conditions. Global best practices will be captured... and adapted to the Indian conditions.”

To take advantage of the experiences of these other schemes on water and to learn from the efforts of other organisations, the DST Secretary has set up the National Consultative Group (NCG) under his chairmanship. The group, consisting of leading organisations and agencies, will help avoid duplication of work and act as a feeder channel to the TEC on the availability of technologies with these organisations as also outside the system. This should ensure that, for instance, data and technologies available with the other two missions become available for use in the activities under WAR.

“Conversely,” points out Ramasami, “the solutions identified and proven by the mission can become inputs to the other missions addressing the problem.” The group had its first meeting in May 2009. This speedy implementation of the order was greatly appreciated by the Bench. Indeed, the TEC has met thrice and constituted seven sub-committees to look into various aspects of the mission; in particular, site selection across the country for implementing the various solutions that the mission will come up with; demand side scoping, which will essentially be based on information provided on water challenges faced at various locations in different States; and supply side scoping of the mission, which will be driven by technologies and solutions identified by another sub-committee.

Interactions with stakeholders in different States took place in October 2009 following requests from the mission secretariat for suggestions on water-challenged sites with a population of around 10,000 (about 2,000 families). The idea being that solutions will first be implemented at this scale at two contiguous villages with similar water problems to prove their technical viability, and upscaling it to cover a population of 100,000 at two locations in different geographical regions of the country.

The mission is aimed at demonstrating solutions that can solve the diverse water problems in different parts of the country covering a total population of over 50 lakhs. So far, 20 States have responded with a suggestion of 110 sites. The Union Territories and eight States are yet to respond to the request. The court, too, has urged them to respond quickly.

While problems are related to both quality and quantity, quality-related problems are more severe, pointed out Laxman Prasad of the DST, the mission’s convener. “Water-related challenges,” the mission document notes, “may arise out of multiple causes, and scientific solutions may demand several and innovative approaches. It is likely that multiple technology solutions may be found. It is, therefore, preferable to scout for possible solutions for the diverse water-related problems in the country through globally available opportunities.... Sustainability and viability of recommended solutions will form a crucial part. Therefore, so-
olutions emanating from research should be practically proved for their viability and sustainability in a convincing manner in credible scales before the claims of feasibility of solutions are made.”

The last sentence is clearly a comment on the limitations of many of the technologies developed in the Indian context in that they have not found widespread applicability for one reason or the other; in particular, the lack of a revenue model that would render them viable for widespread deployment and acceptable to the industry for scaling up.

“Since urgent solutions are required,” notes the document, “application research on convergent water technology solutions has been prioritised over developmental research on water technologies in the laboratories.” The mission will, therefore, primarily focus on adaptation and absorption of technologies in different social contexts and developing, in parallel, home-grown solutions through laboratory research. At the same time, the document emphasises the importance of non-technical issues in the water challenge: “While majority of the problems associated with water may be on account of insufficient availability of research-led solutions to waterbody managers and the community, there are also other serious social and community issues that contribute to the aggravation of the problem.”

MISSION’S OBJECTIVES
The underlying concept for the WAR mission is that problems associated with water arise broadly from the following issues: (a) insufficient availability; (b) poor quality for the intended use; and (c) indiscriminate use of available natural resource. Correspondingly, the focus of the technological approaches would be on (a) winning water from sustainable sources; (b) augmentation of quality of water from available and accessible sources; and (c) renovation or recycling. The mission’s objective is, therefore, to find “timely, urgent, cost-effective, socially viable and sustainable techno-management solutions” for solving the problems of water scarcity.

The average annual rainfall in India is estimated to be 4,000 billion cubic metres. Only one-fourth of this is available as usable surface water and groundwater. At present the annual consumption is about 750 billion m³ for all applications, including agricultural, industrial, commercial and domestic. Even with a conservative estimate of per capita consumption of 1,000 m³ a year, water availability is likely to be fully stretched in the years to come.

Already the gradual decline in the per capita availability of water is very

CHILDREN COLLECTING WATER from a broken pipe in Salem, Tamil Nadu. WAR’s objective is to find “timely, urgent, cost-effective, socially viable and sustainable techno-management solutions” for water scarcity.
Natural Resources

much evident (see graph). In fact, according to the Worldwatch Institute, the per capita availability is likely to be less than 1,000 m³ a year by 2020. This clearly calls for augmentation of water resources on an urgent basis and the impending climate change will only aggravate the problem of water stress leading to a water crisis.

Water scarcity, according to the mission document, can be traced to several causes that include (1) decreasing per capita availability; (2) loss of quality of fresh water on account of contamination or poor management practices; (3) inadequate harvesting of rainwater resources; (4) excessive and inefficient use of water in some human activities; (5) water unavailable for use on account of natural contamination with, for example, arsenic, fluoride, iron, etc.; (6) non-potability due to salinity; (7) non-availability of technical solutions like reverse osmosis (RO) and distillation in several socio-economic environments; (8) inadequate waterbody and wetland management practices; (9) inadequate flood management practices; (10) injudicious use of water without recycling; and (11) urbanisation with insufficient infrastructure for sourcing, delivering and recovery for multiple use.

Correspondingly, a set of 25 key water-related challenges in the Indian context have been identified (see table). These include site-specific problems and those of a generic nature. As a result of all these, the per capita availability has already fallen below 1,000 m³ a year in various locations in the country where several hard and long-term options may be needed, notes the mission document. Following a detailed survey of the identified problems and data evaluation, about 61 locations covering 17 water-related challenges have been identified as priority sites for field study from among the 110 suggested by the various States (see pie chart).

The actual ground survey in terms of gathering of data pertaining to village clusters with the stated problems was carried out by Market Insights Consultants, a Noida-based firm with countrywide presence, while the selection of priority locations was done by the appropriate sub-committee of the TEC.

The identification of suitable technologies themselves was done through an invitation for Expression of Interest (EoI) made through an open advertisement on November 15, 2009, and parties were required to make their submissions by November 30. With the thrust being to identify proven solutions, the eligibility criteria were that the party should have had an annual turnover of Rs.50 million or more in the last three consecutive years as well as a minimum of five years’ experience in providing and managing solutions to any of the identified 25 water challenges. This naturally excluded most of the R&D laboratories even though they may have developed suitable technologies or solutions.

The emphasis being on proven solutions, only those technologies that the R&D institutions should have successfully transferred to industries with appropriate business models could submit their EoI. According to Prasad, only a couple of such technologies from two laboratories of the Council of Scientific and Industrial Research (CSIR) have been identified even though, in principle, national R&D laboratories are supposed to have developed many more.

The interested parties will have to offer solutions that would provide 40 litres a day per capita for municipal supply and three litres a day per capita for drinking water purposes. These minimum per capita norms are applicable to domestic consumption in rural environments and are derived from the RGNDWM of the Ministry of Rural Development. The attendant indicative cost per person should not be more than Rs.125 a month per family, corresponding to a revenue of Rs.3 million a year for catering to a 10,000-population cluster complete with reject management and operational maintenance of the solution over the mission period of two years.

In all, 67 companies, including two from overseas (Spain and Belarus), responded to the EoI call, of which 43 technologies (42 Indian and one from Spain) have been shortlisted. A pre-bid conference has already taken place with the interested parties. These shortlisted parties will make their bids by January 28. Following detailed presentations of the complete solutions that the bidders propose to provide, the bid proposals will be evaluated and the finalisation of the award is expected to be completed by mid-March. A selection of a first set of solutions for 10 sites with populations of about 10,000 will be made subsequently, which will kick off the implementation of the mission WAR on the ground.
At the London Conference, the international community acknowledged that any meaningful solution to the Afghan tangle was possible only with the help of Pakistan. India was practically confined to the sidelines.

THE London Conference on Afghanistan, held on January 28, was supposed to work out a coherent “exit strategy” for the West with regard to the war-torn country. The conference was attended by representatives of more than 70 countries and of the European Union, the North Atlantic Treaty Organisation and the United Nations.

The desperation to get out of Afghanistan was evident in the statements of most Western leaders present at the meeting. The willingness to open dialogue with the “good Taliban” in order to find a political solution was an indication of the prevailing pessimistic mood.

But a political or military solution was nowhere in sight, and it is apparent that the military occupation of Afghanistan will continue for at least another five years. In fact, Afghan President Hamid Karzai wants the foreign troops to be around for a minimum of 15 years. He reiterated this demand once again in London, and E.U. and NATO officials were critical of his 15-year time line.

It is evident that the grandiose promise of United States President Barack Obama to withdraw all American troops by 2011 is no longer feasible. With the militarily ascendant Taliban refusing to be drawn into dialogue, the conditions on the ground will mean that U.S. troops will continue to be stationed in Afghanistan beyond this deadline. The 10,000 additional NATO troops from European countries that Washington expected to be deployed...
in Afghanistan as part of the military surge do not seem to be materialising. France has announced that it will not send any more troops to Afghanistan. Germany has promised only 500 more troops, while the Netherlands is on the verge of pulling out all its 2,000 soldiers.

While appealing to the “good Taliban” to start talks, the West has set up a $650-million “trust fund” to buy off warlords and tribal groups allied with the Taliban. The West is also trying to persuade the Saudi Arabian government to use its influence and money to wean fighters away from the Taliban. Saudi Arabia has pledged an additional $150 million in aid to Afghanistan.

**Engaging the Enemy**

“You have to be willing to engage with your enemies if you expect to create a situation that ends the insurgency,” said U.S. Secretary of State Hillary Clinton after the conference. She, however, hastened to add that the outcome of the London Conference did not in any way signal an early “exit strategy” for the U.S.

British Foreign Secretary David Milliband announced that Afghan forces would be in charge of all the provinces within the next five years.

The Afghan President appealed to all the neighbouring countries, “particularly Pakistan, to support our peace and reconciliation endeavours”. In fact, Pakistan emerged from the conference with its role further enhanced. There was an implicit acknowledgement from the international community that any meaningful solution to the Afghan tangle was possible only with the help of Pakistan.

**India’s Role**

India, which was represented by External Affairs Minister S.M. Krishna, was confined to the sidelines. India is among the major donors of development aid to Afghanistan. It has a high-profile political and strategic presence in the country. At every opportunity, the Pakistani establishment has been complaining about India’s growing footprint in Afghanistan, which Islamabad considers its own “strategic backyard”.

Even more galling to New Delhi was the West’s endorsement of the idea of talking to the “good Taliban”. New Delhi, Teheran and Moscow are of the view that the Taliban, be it the good, the bad or the ugly, is all terrorists.

The U.S., which is doing the bulk of the fighting in Afghanistan, seems to have come to the conclusion that the only feasible way out of the political and military impasse is either to bribe Taliban fighters to lay down their arms or negotiate a peace deal with its leadership. The Americans were doing business with the Taliban government before September 11, 2001.

New Delhi was also holding talks with the Taliban government in the late 1990s. There was talk of a gas pipeline from Turkmenistan being routed through Afghanistan then. The American company Unocal was keen to extend the pipeline through Pakistan to India. It was the hijacking of an Indian Airlines passenger plane to Kandahar during the rule of the National Democratic Alliance government of A.B. Vajpayee that significantly hardened New Delhi’s stand towards the Taliban.

The Taliban Foreign Minister at the time, Wakil Ahmed Muttawakil, had negotiated on behalf of the hijackers of IC-814. Kashmiri militants had also undergone training in Afghanistan when the Taliban was in power.

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The West has now identified Muttawakil as a member of the “good Taliban” and he is no longer on the U.N.’s “sanctions list”. He is now a free man, and is being used to persuade the Taliban leadership to the negotiating table.

As Foreign Minister, he had tried...
to play a mediatory role between the Bush administration and the Taliban leadership before the American invasion of Afghanistan in 2002.

The IndianExternal Affairs Minister continues to insist that the Taliban is composed of terrorists. “We consider them to be terrorists, who have close links with Al Qaeda and other terrorist groups,” he told the media on the sidelines of the London Conference.

At the same time, the Minister said that India would go along with the reconciliation programme announced in London. Krishna said that the Taliban, the government has always been in favour of an Afghan solution to the problem. Mottaki, during his last visit to New Delhi, had made it clear that Teheran’s priority is an end to the foreign occupation of Afghanistan.

The move to start seriously talking with the Taliban was evident even before the London Conference started. The American commander in Afghanistan, Gen. Stanley McChrystal, told the British media that all Afghans, including the Taliban, can play a role in the peace process “if they focus on the future, not on the past”.

Kai Ede, the outgoing U.N. representative, is a strong votary of the reconciliation process. He said that this was the first time that peace-making efforts got such strong support from the Karzai government’s international backers. Ede stressed that the military strategy in Afghanistan was deeply flawed and was doomed to fail unless political concessions were made soon. There were reports that Ede was already engaged in secret talks with the Taliban leadership. However, both Ede and the Taliban spokesman have strongly denied this.

The Taliban dismissed the London Conference as a propaganda exercise. “The war-mongering rulers under the leadership of President Obama and the British Prime Minister Gordon Brown want to deceive the people of the world by holding the London Conference to show that people still support them,” said a statement issued by the Taliban. Abdullah Abdullah, Karzai’s rival in the recent election, is of the view that the Taliban is not willing to enter into negotiations at this stage. The Taliban has been saying for some time that it will engage in talks only if there is an end to foreign occupation.

But, in a renewed bid to reassure the West and neighbouring countries about its future intentions, the Taliban statement said: “We do not intend to harm neighbouring countries and other countries of the world. We will not allow our soil to be used against any other country.” The statement also alluded that there was a rethink about the regressive social policies that the Taliban had adopted when it was in power from the mid-1990s.

“The Islamic Emirate is committed to take measures for the fulfillment of our countrymen’s educational needs in the light of the fundamentals of Islam and the requirements of the contemporary world,” the statement said.

There are unconfirmed reports that the Obama administration is using Pakistan’s Inter Services Intelligence Directorate to negotiate directly with the Taliban leadership. U.S. National Security Adviser James Jones, while not explicitly ruling out Pakistan’s help, told an American newspaper group that Washington was “pursuing a general strategy of engagement”. Hillary Clinton, however, clarified after the London Conference that the U.S. backed reintegration of the Taliban into the political process but the top Taliban leadership led by Mullah Omar was excluded from the reconciliation deal.
The triumph of Evo Morales is an unequivocal endorsement of the radical policies he ushered in four years ago. Chilean President-elect Sebastian Pinera has pledged not to make any changes in the economic policies initiated by the Centre-Left.

THE December 2009 elections in Bolivia and Chile, which share a contested border, were noted for the electorates’ markedly different positions. The people of Bolivia gave the incumbent President Evo Morales a thumping mandate. The election in Chile was more tightly contested. Though the second round was held only in January, it was clear from the results of the first round that the Centre-Left coalition’s 20-year hold on the government in Chile was coming to an end.

In the first round, Sebastian Pinera, a billionaire businessman, won 44 per cent of the votes. Eduardo Frei, the candidate of the Centre-Left Concertacion coalition, came second with 36 per cent of the votes whereas the independent socialist candidate, Marco Enriquez-Ominami, won 20 per cent. In the final round, 52 per cent of the votes went to Pinera, Chile’s third richest person. The victory will make him the first right-wing President to hold office since the end of General Augusto Pinochet’s military dictatorship in 1990.

It was clear that many supporters of the independent left-wing candidate voted against “politics as usual”, symbolised by the Centre-Left governments of the last two decades. There was also a high degree of abstention among voters, illustrating the disenchantment of the electorate with the lack of real choices.

Though sections of the Western media have tried to portray the victory of Pinera as a setback for the Left in Latin America, most analysts blame the electoral reverses in Chile on the lacklustre personality of Frei and the anti-incumbency factor. Politics in the country seems to have become personality, not ideology, driven. The current President, Michelle Bachelet, has an approval rating of over 75 per cent but was barred from running again because of constitutional constraints. She is eligible to contest again after four years. Frei could not, however, translate Michelle Bachelet’s popularity into votes in his favour in the second round. Frei, who belongs to the Christian Democratic Party, was himself President in the 1990s.

There was nothing much to distinguish between the economic and political platform of the two opposing candidates. The right-wing candidate ran a slick campaign aided by his riches. The right-wing combination Pinera led was named the “Coalition of Change”, taking a leaf out of the strategy adopted by Barack Obama during his campaign for the United States presidency. Pinera pledged not to make any changes in the economic policies initiated by the Centre-Left or reinstate any politician who had served under the brutal dictatorship of Pinochet.

Like his Centre-Left rival, Pinera also promised to continue with the progressive social programmes initiated by the current Socialist President, including the extension of child care and state assistance to non-working mothers. After winning the elections, one of the first things that Pinera did was to praise Bachelet and seek her advice. As the right-wing parties lack a legislative majority, Pinera may have to include Concertacion candidates in his Cabinet. Otherwise, it will be difficult for the new government to enact legislation. The President-elect, who is to take office in March, has already started talking about forming a government of “national unity”.

Pinera’s elder brother, Jose, was one of the architects of Pinochet’s neoliberal economic policies and had served as Labour Minister under him. The Centre-Left governments that followed Pinochet also retained most of the neoliberal economic programmes of the dictatorship, which led to the “Chilean miracle”. The country’s economy, which registered impressive growth figures throughout the 1990s and early 2000s, has been experiencing nega-
tive growth in the past two years. The official unemployment rate is over 10.2 per cent. Pinera’s promise to create a million more jobs during his term seems to have swayed voters.

The contrasting triumph of Evo Morales and his party, the Movement for Socialism (MAS), Bolivia, with more than two-thirds of the votes, is an unequivocal endorsement of the radical policies he ushered in after taking office four years ago.

The right wing, which until last year was threatening to break up the country and was staging violent protests, is in disarray. But the right-wing candidate, Manfred Reyes Villa, a former Governor, got the majority of votes in the key province of Santa Cruz, which is threatening secession.

The MAS is now in total control of both houses of parliament, having won two-thirds of the seats. The ruling party can now call for referendums for further amendments to the Constitution and will be able to make key judicial appointments.

Morales will now have a much freer hand in implementing his ambitious land reforms programme in the new five-year term. Already 26 million hectares has been redistributed, benefiting 98,454 families. Morales ran for a second term after successfully getting the Constitution amended by a referendum last year. The old Constitution had restricted the term of the President to just one.

The indigenous people, who form the majority of the populace, will be further empowered with the re-election of Morales. Since taking office, he has created quotas in the army and other government services for indigenous people, who have been discriminated against for a long time. His government set up a special school to train diplomats from indigenous backgrounds. Three new universities for indigenous people have also been set up.

The Morales government also achieved the noteworthy feat of eradicating illiteracy with the help of friendly governments such as those in Cuba and Venezuela. It also managed to reduce extreme poverty by 6 per cent.
while reducing foreign debt from $4.4 billion to $2.4 billion. A notable achievement of Morales as President has been the nationalisation of the country’s hydrocarbon sector. This move improved the government’s revenues substantially. Before nationalisation, gas was sold at $0.6 cents per million thermal units. Today it is sold at $5 per million thermal units.

Many poor households have now got natural gas connections. In the three years since the nationalisation, Bolivia earned $6.413 billion. Much of the windfall profits have been used to improve the public infrastructure of the nine State governments and 327 municipalities.

Morales plans to bring around 40 per cent of the country’s economy under state control. At present around 28 per cent is under the control of the government. The country has huge deposits of lithium but does not have the expertise or the capital to mine it. The metal is used for computer and camera batteries and is in tremendous demand worldwide. Morales said that he was ready to “guarantee” investments to exploit the country’s lithium deposits but warned that Bolivia needed “partners, not patrons”.

Venezuelan President Hugo Chavez hailed the victory of Morales as a victory for all of Latin America. He described it as a victory for “popular constitutionalism”, which has it roots in Venezuela. Venezuela was the first country that changed the Constitution in the region so that it reflected the aspirations of the common people. The “Bolivarian Constitution” adopted in 1999 started a trend. Ecuador and Bolivia soon followed suit and put in place a popular Constitution approved by referendums. Brazil and Argentina may also do the same in the near future.

As Chavez pointed out, this development is viewed with hostility in Washington and by the privileged classes in Latin America. The President of Honduras, Manuel Zelaya, was ousted when he talked about the possibility of convening a Constituent Assembly. Washington, Chavez has warned on several occasions, is not adverse to staging military coups in countries such as Ecuador and Bolivia “to stem the rising tide” of popular governments in the region.

Morales took the oath of office for his second term on January 22. As many as 30,000 people took to the streets of the capital La Paz to celebrate the occasion. “Comrades, democracy has been consolidated – the colonial state has died and the multicultural state has been born,” declared Morales. Among those present on the occasion were Chavez and Ecuadorian President Rafael Correa.

In his address to his countrymen, Morales said that he would focus on building an “inclusive Bolivia”, consolidating on the tremendous achievements made during his first term in office.

“When the unions and the social leaders truly represent the people and work for the country, as we are doing in Bolivia, revolution becomes democratic and based on conscience – the time has come out to seek equality, dignity and unity beginning from solidarity among all our peoples,” he said.
THOUSANDS of public schools in the United States stopped teaching foreign languages in the last decade, according to a government-financed survey – dismal news for a nation that needs more linguists to conduct its global business and diplomacy.

But another, contrary, trend has educators and policymakers abuzz: a rush by schools in all parts of America to offer instruction in Chinese. Some schools are paying for Chinese classes on their own, but hundreds are getting some help. The Chinese government is sending teachers from China to schools all over the world – and paying part of their salaries. At a time of tight budgets, many American schools are finding that offer too good to refuse.

In Massillon, Ohio, south of Cleveland, Jackson High School started its Chinese programme in the fall of 2007 with 20 students and now has 80, said Parthena Draggett, who directs Jackson’s world languages department. “We were able to get a free Chinese teacher,” she said. “I’d like to start a Spanish programme for elementary children, but we can’t get a free Spanish teacher.” (Jackson’s Chinese teacher is not free; the Chinese government pays part of his compensation, with the district paying the rest.)

Experts say several factors are fuelling the surge. Parents, students and educators recognise China’s emergence as an important country and believe that fluency in its language can open opportunities.

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Experts say several factors are fuelling the surge. Parents, students and educators recognise China’s emergence as an important country and believe that fluency in its language can open opportunities.
No one keeps an exact count, but rough calculations based on the government’s survey suggest that perhaps 1,600 American public and private schools are teaching Chinese, up from 300 or so a decade ago. And the numbers are growing exponentially. Among America’s approximately 27,500 middle and high schools offering at least one foreign language, the proportion offering Chinese rose to 4 percent in 2008, from 1 percent in 1997, according to the survey by the Centre for Applied Linguistics, a research group in Washington, and paid for by the federal Education Department. “It’s really changing the language education landscape of this country,” said Nancy C. Rhodes, a director at the centre and co-author of the survey.

Other indicators point to the same trend. The number of students taking the Advanced Placement test in Chinese, introduced in 2007, has grown so fast that it will likely pass German this year as the third most-tested A.P. language after Spanish and French, said Trevor Packer, a vice-president at the College Board, a trust that assists students to take the A.P. tests. “We’ve all been surprised that in such a short time Chinese would grow to surpass A.P. German,” Packer said.

A decade ago, most of the schools with Chinese programmes were on the east and west coasts. But in recent years, many schools have started Chinese programmes in heartland States, including Ohio and Illinois in the midwest, Texas and Georgia in the south, and Colorado and Utah in the Rocky Mountain west. “The mushrooming of interest we’re seeing now is not in the heritage communities, but in places that don’t have significant Chinese populations,” said Chris Livaccari, an associate director at the Asia Society.

America has had the study of a foreign language grow before, only to see the bubble burst. Many schools began teaching Japanese in the 1980s, after Japan emerged as an economic rival. But thousands have dropped the language, the survey found. Thousands of schools that offered French, German or Russian have stopped teaching those languages, too, the survey found.

To prepare the survey, the Centre for Applied Linguistics sent a questionnaire to 5,000 American schools, and followed up with phone calls to 3,200 schools, getting a 76 percent response rate. The results, released in 2009, confirmed that Spanish was taught almost universally. The survey found that 88 percent of elementary schools and 93 percent of middle and high schools with language programmes offered Spanish in 2008.

The overall decline in language instruction was mostly because of its abrupt decline in public elementary and middle schools; the number of private schools and public high schools offering at least one language remained stable from 1997 to 2008. The survey said that a third of schools reported that the federal No Child Left Behind law, which since 2001 has required public schools to test students in math and English, had drawn resources from foreign languages.

Experts said several factors were fuelling the surge in Chinese. Parents, students and educators recognise China’s emergence as an important country and believe that fluency in its language can open opportunities.

Also stoking the interest has been a joint programme by the College Board and Hanban, a language council affiliated with the Chinese Education Ministry, that since 1986 has sent hundreds of American school superintendents and other educators to visit schools in China, with travel costs subsidised by Hanban. Many have started Chinese programmes upon their return. Since 2006, Hanban and the College Board have also sent more than 325 volunteer Chinese “guest teachers” to work in American schools with fledgling programmes and paid $13,000 to subsidise each teacher’s salary for a year. Teachers can then renew for up to three more years. The U.S. State Department has paid for a smaller programme to bring Chinese teachers to American schools, with each staying for a year.

In the first two years of its Chinese programme, the Jackson district said it had provided its guest teacher with housing, a car and gasoline, health insurance and other support worth about $26,000. This year, the district is paying a more experienced Chinese guest teacher $49,910 in salary and other support, in addition to the $13,000 in travel expenses he or she receives from Hanban, bringing his or her compensation into rough parity with Ohio teachers.

Parthena Dragget visited China recently with a Hanban-financed delegation of 400 American educators from 39 States, and she came back energised about Jackson’s Chinese programme. “Chinese is really taking root,” she said. Starting this fall, Jackson High School will begin phasing out its German programme, she added.

Founders of the Yu Ying charter school in Washington, where all classes for 200 students in prekindergarten through second grade are taught in Chinese and English on alternate days, did not start with a guest teacher when it opened in the fall of 2008.

“That’s great for many schools, but we want our teachers to stay,” said Mary Shaffner, the school’s executive director. Instead, Yu Ying recruited five native Chinese speakers living in the U.S.

One is Wang Jue, who immigrated to the U.S. in 2001 and graduated from the University of Maryland. After just four months, her prekindergarten students can already say phrases like “I want lunch” and “I’m angry” in Chinese, Wang said.

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IS India being absorbed into an increasingly networked East Asia? Alternatively, is East Asia beginning to take India as a serious partner for potential cooperation in a variety of fields? These questions, with answers in the yes-to-maybe bandwidth, have come to the fore because of the visits to India in quick succession by the leaders of Japan, Malaysia and South Korea.

Japanese Prime Minister Yukio Hatoyama visited Mumbai and New Delhi in late December to keep up the continuity of annual summits on the bilateral front. His talks with India’s political leaders and his perceptions of its evolving economic profile set the stage for a seamless expansion of bilateral ties.

Malaysian Prime Minister Najib Tun Razak travelled to New Delhi and Chennai from January 19 to 22 to enhance ties with India. Hyderabad, originally on his tour plan, was deleted from it because of the situation arising out of the Telangana issue. Najib could not stay on for an India-Malaysia partnership summit, a business event, in Chennai on January 23 as he had to rush home following the death of a former constitutional monarch of Malaysia. The sultans of different states in Malaysia take turns as the country’s King for specified periods.

South Korean President Lee Myung-bak was invited to be the chief guest at this year’s Republic Day celebrations in New Delhi. His talks with the Indian leaders helped set new benchmarks in relations in a new setting characterised by the implementation of a bilateral economic pact with effect from January 1.

In such a broad sweep of regional diplomacy, it bears repetition that India, not located in geographical East Asia, is already a player in the geopolitical version of this region. New Delhi is a founding member of the East Asia Summit (EAS) forum. The major powers in geographical East Asia are increasingly coalescing into a network of integrating economies. It will be a mistake, however, to see such an emerging network as a real or potential entity of countries with a uniformity of domestic politics.

India’s growing engagement with Japan or Malaysia or South Korea, on three separate tracks, reflects some overlapping patterns, too. The overarching political ambience of this engagement is that of China’s continuing rise in East Asia as a potential global power that might begin to rival the United States in some ways. This reality does not, however, negate the individualistic foreign policies of either India, on one side, or Japan as also South Korea and Malaysia, on the other.

Visible, indeed, within such a large picture are the specific nuances of India’s engagement with ei-

**SOUTH KOREAN PRESIDENT** Lee Myung-bak and his wife Kim Yoon-ok at the Mahatma Gandhi memorial in New Delhi on January 25. He was the chief guest at this year’s Republic Day celebrations in New Delhi.
ther Japan or Malaysia or South Korea. There is, at the same time, a common theme of practical diplomacy on the part of each of these three countries. Unsurprisingly, therefore, they have now sought to overcome the political reservations or even the political inertia evident in their independent interactions with India until recently.

Practical diplomacy in this context is simply the result of two inter-related factors: the potential rise of India as an economic powerhouse and the transparent decisions of Japan as also South Korea and Malaysia to be accommodating of New Delhi to the extent possible. Such a general East Asian sense of accommodativeness towards India is not the same as the qualitatively higher degree of pre-eminence that China has come to enjoy unchallenged in this region in recent years.

The largely uncontested rise of China is in fact the result of practical diplomacy by some major East Asian states, including the U.S. as a “resident East Asian power”. And if Beijing has evoked such practical diplomacy among the East Asian powers, the reason is not traceable to only reality: China’s own efforts to grow up as a multidimensional power. The relative decline of the U.S., especially as an economic superpower, is surely a parallel factor at work.

Whatever the reasons, the general lack of resistance to China’s rapid rise in East Asia is facilitating the emergence of a possible ecosystem of interstate relations in the region. By definition, any such ecosystem can be more stable than a new political order as created by a conventional-style power struggle between a reigning superpower (either a singular country or a coalition and a rising state or an ascendant group of nations).

In such an overall theoretical and practical framework of a China-related ecosystem of inter-state relations in the region. By definition, any such ecosystem can be more stable than a new political order as created by a conventional-style power struggle between a reigning superpower (either a singular country or a coalition and a rising state or an ascendant group of nations).

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ANAND SHARMA (RIGHT), Minister for Commerce and Industry, and Hirohiko Ishige, Vice-Minister for International Affairs, Ministry of Economy, Trade and Industry, Japan, after signing an MoU on development of eco-cities in the Delhi Mumbai Industrial Corridor project areas, in Delhi on December 28.

New possibilities of Japan-India cooperation over such economic projects as the Delhi Mumbai Industrial Corridor and the dedicated freight corridor were also spelt out as almost an article of political faith. Japanese collaboration for a new Indian Institute of Technology, this time in Hyderabad, was also outlined as a distinct possibility, despite the current uncertainties in that city as a result of the Telangana issue. Overall, the bilateral economic ambience is still infused with, if not also determined by, the fact that India is the largest recipient of Japan’s Official Development Assistance. Noteworthy, at the same time, are the new political tendencies in Japan to upscale its economic ties with India, by comparing and contrasting those with Tokyo’s equation with Beijing in comparable domains.

Economic cooperation has so far formed the strategic core of dynamic potential in India’s ties with Japan. This aspect, now sought to be reinforced further, was emphasised by Prime Minister Manmohan Singh after his talks with Hatoyama on December 29. The Japanese leader, too, concurred. He did note that “bilateral Japan-India trade still remains far below the level of Japan-China trade, only 1/20th of Japan-China trade”. Hatoyama said “it is important [therefore] that we further speed up or encourage such investment”.

A “conducive [step] ... would be the early realisation of a Bilateral Economic Partnership Agreement [EPA]”, he said, drawing attention to the “concerns that still need to be negotiated”. So, the officials on both sides would be instructed to expedite their talks so that an EPA could be concluded as soon as possible. Echoing this sentiment, Manmohan Singh expressed the hope that the ongoing negotiations on a “high-quality and balanced agreement” could be completed in time for the next annual India-Japan summit.

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Hatoyama has now emphasised an equally important new factor in a relatively new domain of Japan-India cooperation. Commending the now-finalised Action Plan for security cooperation, he is raising visions of a meeting of minds on such issues as the safety of mercantile navigation. The Action Plan, too, provides for regular bilateral naval exercises. And the participation of both India and Japan in multilateral naval exercises is envisioned whenever “possible”. This is but diplomatic euphemism for associating themselves with the U.S. when deemed politically correct on both sides.

On the sensitive nuclear issues, Hatoyama said he discussed with Manmohan Singh how far “Japan and India have common interests in advancing nuclear disarmament and non-proliferation around the world”. A suggestion was made for bilateral cooperation for “the total elimination of nuclear weapons”. Manmohan Singh’s response was that India would do its best for nuclear disarmament and non-proliferation.

Given Tokyo’s continuing official-level passion for the U.S.-inspired pacifist Constitution of post-imperial Japan, Hatoyama has sought to tread a fine line on the issue of transferring knowhow and materials for India’s civil nuclear energy programme. He said Manmohan Singh “mentioned that Indian companies will not divert [any nuclear] imports from Japan for weapons purposes and they will not divert these imports someday to third-party countries”. With that in mind, Tokyo “would like to make efforts for a positive conclusion” of the pending issue of whether Japanese firms could engage India in the civil nuclear energy domain.

The basic thrust of Hatoyama’s latest moves in a complex India-related diplomacy is to deepen and expand cooperation across the spectrum. In the process, Tokyo has now given itself some pragmatic elbow room to explore the possibility of cooperation in the civil nuclear field by beginning to see India as a potential kindred soul in the cause of an eventual nuclear-weapons-free world.

On a parallel track, India and South Korea have now “decided to enhance their bilateral relationship to a strategic partnership”. In a joint statement issued after the talks between Lee and Manmohan Singh on January 25, the two sides emphasised the need to sustain the momentum created by their Comprehensive Economic Partnership Agreement that came into force on January 1.

The two leaders also “shared the view that nuclear energy can play an important role as a safe, sustainable and non-polluting source of energy”. They, therefore, “agreed to facilitate the development of a framework for bilateral civil nuclear cooperation”. This is a direct sequel to South Korea’s recent success in bagging a key export order, not involving India, for nuclear reactors for civilian purposes.

**Economic cooperation has so far formed the strategic core of dynamic potential in India-Japan ties.**

In a sense, Seoul has never had a insurmountable ideological objection to trading with India in the civil nuclear domain. Unlike Japan, South Korea does not always invoke the first principles of a non-existent global order in the present-day atomic age. Also, New Delhi’s diplomatic persuasion and Washington’s realpolitik drive had convinced Seoul to allow the Nuclear Suppliers Group to do India a favour not long ago.

In these circumstances, the novelty of the latest South Korean move to seek a share of India’s civil nuclear energy market can be traced to Seoul’s larger international profile that goes beyond that of being an ally of the U.S. As a member of the so-called Coffee Club at the United Nations, South Korea had, in the past, seemed to have not been very sensitive to India’s aspirations on the global stage.

In some contrast, South Korea has now signed a memorandum of understanding with India on “cooperation in the peaceful uses of outer space”. It remains to be seen whether Seoul’s move is guided, at least in part, by the recent indications from Beijing that China, already a premier space-faring nation, might no longer be averse to using the outer-space domain for “peaceful” national security purposes as well in exceptional circumstances.

**COMPREHENSIVE PACT**

Malaysia’s enhanced engagement with India is not in the same category as either Tokyo’s or Seoul’s. Suffused with an economic agenda, inclusive of accelerated talks for a comprehensive pact, Malaysia and India are looking for suitable diversification of ties in the defence and knowledge-based sectors as also the educational field. The somewhat unique nature of their people-to-people ties are also begging to be addressed with some laser-like focus. Above all, Najib Tun Razak and Manmohan Singh have, in a joint communiqué issued on January 22, agreed to develop “a framework for strategic cooperation and partnership”. As a major player in the South-East Asia sub-region, Malaysia has now made a strategic choice based on pragmatism in dealing with India.

The flurry of East Asia-India diplomatic activity will be closely and independently assessed by both the U.S. and China, especially in the context of ensuring the long-term security of geopolitical East Asia. Strategic affairs experts such as Nick Bisley tend to believe that either China or India or both, as “rising powers”, could “spark a change in attitude among the major powers” in ways to help refashion the region’s existing order which is marked by a “clutter” of security-related institutions.
By the 13th century, Vajrayana Buddhism, which was born at the Nalanda university and which developed to its full height in the Vikramshila university, travelled through Tibet to Mongolia. The faith took root here by the 16th century.

The vast spread of Indic philosophy across Asia since ancient times is one of the great miracles of history. The concept of samsara, of maya and mithya, the illusory nature of the material world around us, was crystallised in the Upanishads by the 8th or 9th century B.C. The high purpose in life was to be able to see beyond this veil of illusion to the eternal truth which was beyond. People who were able to achieve this were known as Buddhas, or Enlightened Ones, and Tirthankaras, or Victors over the fear of Death.

Over the next two thousand years, this vision of life and of a path to escape from the web of maya spread to many countries of Asia. It pervaded the culture of present-day Sri Lanka, Myanmar, Thailand, Laos, Vietnam, Indonesia, Nepal, Bhutan, Afghanistan, Tibet, Central Asia, China, Korea and Japan. The northern-most frontiers to which this philosophic view of life travelled was Buryatia in Siberia and Mongolia. It is believed that by the 13th century the Vajrayana form of Buddhism, which was born at the Nalanda university and which developed to its full height in the Vikramshila university (both in present-day Bihar), travelled through Tibet to
Mongolia. The faith ran deep roots here by the 16th century and has survived the turbulence that the centuries brought.

The history of Mongolia’s association with the Buddhist faith goes back to the 13th century when the emperor Kublai Khan (who ruled China then) conferred the title Dalai Lama (Dalai is a Mongolian word meaning “wide as the ocean”) on the head Lama of the Sakya sect of Tibet. In the 16th century, the emperor Altan Khan conferred the title of Dalai Lama on the head of the Geluk sect. Later in the 16th century, the Mongolian ruler Avtai Khan built Buddhist temples in his capital Kharkhorum. It is believed that these temples were made on the foundations of earlier 13th century Buddhist structures here.

The greatest Buddhist king of Mongolia was Zanabazar of the 17th century. Himself a great artist, he built...
many temples. The finest Buddhist art that survives in Mongolia was made by him. A descendent of the legendary Ghengis Khan and Kublai Khan, he is believed to be the reincarnation of Javzandamba, who was one of the Buddha’s original disciples in India. Zanabazar created beautiful images of deities in gilt bronze. He was deeply devoted to the deity Tara, and many of the finest images he made are of her. Tara is seen in Buddhist art from the mid-5th century onwards. The earliest surviving sculpture of Tara is in the Kanheri caves of western India.

Zanabazar’s artistic style and conception of deities were influenced by Tibet, whose style in turn is based on those derived from India directly as well as through Nepal and China. The sculptures made by him represent a beautiful confluence of these traditions. The sculptures were objects of worship and were consecrated upon completion. Sacred mantras, or prayers inscribed on rolls of paper, were often kept inside the statues.

Deities began to be made in Indian Buddhist, Jaina and Hindu art from the 1st century B.C.-1st century A.D. onwards. By the Gupta period, in the 5th century, the most exquisite sculptures were being made. Indian artistic traditions travelled especially from the 10th century onwards from Kashmir and the plains of eastern India to Nepal and Tibet. These were deeply cherished in both lands, and schools of art emanating from the classic Indian sources were developed.

By the 13th and 14th centuries, the great Buddhist centres and universities of India were destroyed by foreign invaders, both in the eastern plains and in Kashmir. The roots that fed the Buddhist culture and art of the Himalayas and beyond were cut, and eventually Tibet and Nepal were left to
preserve this rich heritage on their own. Over the centuries, in the vast expanses of the great mountains in Tibet, the liveliness and joyousness of the art gave place to a more formal note and sombre gravity.

In the Indic philosophy of aesthetics, it is believed that the ecstasy we experience on seeing something truly beautiful, be it in nature or in art, is akin to the final bliss of salvation. The moment of the experience of beauty is one of the highest states in which a person senses kinship with the whole of creation, a state in which the soul shakes off its material attachments.
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Thus, the ecstatic response to beauty was seen as a glimpse of the realisation of truth itself. This philosophy was most fully developed in Kashmir. Abhinavagupta, the greatest aesthetician-philosopher of India, lived here in the 10th century, around the time when Tibet derived Buddhism from Kashmir.

In that period, Saivism and Vajrayana Buddhism in Kashmir were deeply permeated by the philosophy of aesthetics.

The art of the Mongolian monasteries continues this sublime tradition. The art of Zanabazar takes us far from the noise and clamour of the material world to a deep fount of peace and beauty, which lies within each of us.

One of the highest forms of Vajrayana meditation is the Cham masked dance of the lamas. The masks
GANDAN MONASTERY, ULAN Bator, Mongolia.
IVOLGA MONASTERY IN Buryatia.
cover the day-to-day nature of the lamas. They meditate for many days before the Cham so as to lose their ego and to become the deity on whom they focus their attention. For, on the day of the Cham, it is the deities who dance and not the lamas. Mongolia had one of the greatest traditions of the Cham in Asia until the 19th century.

In Soviet times, in the first half of the 20th century, the Buddhist culture of this region was temporarily destroyed. Monasteries were razed to the ground and monks were persecuted. However, since the 1990s, the culture has been resurrected with ardent vigour. Monasteries are being reconstructed and the people long for the peace and inner joy which this philosophic vision brings.

Buddhism came to Buryatia in Siberia in the middle of the 17th century, from Mongolia and from Tibet. By 1741, Buddhism was recognised as one of the national religions of Russia. Buddhist temples became centres of learning where Sanskrit, Tibetan and Mongolian languages and manuscripts were studied. By the 17th-18th centuries, the region of Kalmykia, around the river Volga, had become the first Buddhist part of Europe. At the instance of the Buryat Lama Agvan Dorzhiev, a Buddhist temple was built in St. Petersburg in 1915.

After the collapse of the Soviet Union in 1991, Buddhism is being revived in Buryatia. Old temples are being restored and new ones built. There is a deep desire among the people to look beyond the mundane and seek spiritual solace in Buddhist traditions.

In the beginning of the 20th century, Lama Itygelov was the Khambo Lama, the head of the Buddhists of Russia. In 1927, this devout yogi is believed to have voluntarily left his body to attain nirvana. The body, still seated in meditation, was secretly buried by lamas. In 2002, the body was taken out of the ground and placed in the Ivolginsky temple. Studies conducted on the body since then have shown that its characteristics are still the same as those of a living body. The body remains in the sitting position of
meditation and is soft. This miracle greatly inspires the Buddhists of Buryatia. It is through monks who have studied in India that Buddhist traditions are being revived today. In historic times, these traditions of Vajrayana Buddhism were taken to many countries by teachers such as Guru Padmasambhava of the Nalanda University and Atisa of the Vikramshila University. Today again, in keeping with ancient Indian traditions, India has provided the climate for Buddhist universities and monasteries to flower and flourish.

In the middle of the expanses of Siberia, it is most interesting to come across lamas, all of whom speak Hindi, as they have received their Buddhist education in South India. A vision of life, of the search for the truth beyond the illusory nature of the material world, which was created in the first millennium B.C., continues in these distant lands till today. India continues to provide the peace and spiritual sustenance for these traditions.
THIS is a hugely ambitious and panoramic political book, of a sort rarely attempted in our era of quick leader biographies and re-heated histories of the Second World War. Perry Anderson’s stated subject is the past, present and future of the European Union; but his restless chapters keep roaming beyond this already vast territory to trace out a broader history of Europe, taking in everything from architecture under Benito Mussolini to the decline of the Ottoman empire.

And yet, on the second page, he emphasises that there is one subject he will not be covering. “I do not regret the omission of Britain,” he writes, “whose history since the fall of [Margaret] Thatcher has been of little moment.” Thus, in a single elegantly dismissive sentence, 20 years of history – the rise and fall of Tony Blair, the great British boom and bust, the return of London as a world city – that most observers would consider pretty central to the story of modern Europe.

It is a characteristic Anderson judgment. For half a century, as an editor and writer at the influential New Left Review, as professor of history at the University of California and as one of the few Left-associated academics still with a global following, he has summed up centuries and continents in books and essays that read like the loftiest end-of-term reports.

Anderson comes from a prosperous Anglo-Irish family and went to the prestigious Eton school, as his many enemies on the Right and the Left rarely tire of pointing out, and has an impregnable smoothness and confidence on the page. He writes mostly about high politics: international organisations and treaties, the strengths and weaknesses of leaders, how power shifts and is wielded. He writes for grown-ups with patience – the chapters here are long and intricate; the book comes without an explanatory subtitle – but he is never dry or dull.

His account of the E.U. has little time for the standard depiction, almost as common on the Left as on the Right, of it as a bland, bureaucratic conspiracy. Instead Anderson provocatively describes the organisation’s creation as “the last great world-historical achievement of the bourgeoisie”, an unprecedented piece of international cooperation to which radicals and idealists made a substantial contribution.

He cites the involvement of Altiero Spinelli, a former member of the Italian Communist Party interned by Mussolini on the island of Ventotene, who during his captivity secretly co-wrote a manifesto calling for a united Europe to replace the old one of competing nation states. The document was written in 1941, with the Second World War raging, and had to be smuggled off the island. Anderson notes the path its co-author subsequently followed: “Forty years later, Spinelli ended his career... a member of the European Commission and father of the European Parliament, whose principal building in Brussels bears his name.”

Anderson is much less approving of how the E.U. has generally developed since. But his criticisms are typically counter-intuitive and original: “Today’s E.U., with its pinched spending (just over 1% of GDP), minuscule bureaucracy (around 16,000 officials, excluding translators), absence of independent taxation, and lack of any means of administrative enforcement, could in many ways be regarded as... a minimal state, beyond the most drastic imaginings of classical liberalism.”

The E.U. is too pro-business, expansionist territorially and yet too vague and diffident in its underlying mission and, above all, too pro-American. During the war on terror, Anderson continues scathingly, E.U. countries have “surrendered” to the demands of the United States: “Ire-
describes the E.U.’s creation as “the last great world-historical achievement of the bourgeoisie”.

This is not a great surprise: liberals and social democrats have often reserved their sharpest barbs for the faint hearts and compromisers of the Centre-Left.

Yet Anderson goes further, by praising right-wing thinkers on Europe, such as the American neoconservative Robert Kagan and the critic of multiculturalism Christopher Caldwell, for being “lucid” and “hard-head-
ed” about the E.U.’s inconsistencies over immigration and transatlantic relations. I do not think Anderson is about to turn into a neocon – he is too nuanced to accept their broad-brush ideas, and his residual leftist is probably too strong – but he shares with them a relish for depicting the world as it is, brutalities and all, which sometimes makes the reader wonder whether he is condemning the hard men or is grudgingly impressed by them. Perhaps the fact that such a left-winger has sustained a thriving career in socialism-free America is not such a surprise after all.

For the middle section of the book, he turns from the E.U. itself to the countries he considers its “core”: France, Germany and Italy. Each is awarded an extended essay, including a glide through its post-War political history, a consideration of its intellectual life and culture, and an assessment of its prospects. These essays have momentum and clarity which makes them weirdly addictive. Who knew that the long retreat of the French Left could be made so compelling?

Sometimes Anderson gives flesh to his political characters with a novelist’s eye: the former German Chancellor Helmut Kohl has a “heavy bonhomous jaw and sharp feral eyes”. And yet, at times his yardsticks for measuring a country – the health of its journals of ideas, the quality of its art-house cinema, the seriousness or otherwise of its major newspapers – can seem a little elitist and old-fashioned.

This book has been more than a decade in the making; but that does not fully explain why some key elements of contemporary European life, such as terrorism and the Internet, scarcely feature. The absence of Britain also sometimes strains the book. Anderson portrays the recent Europe-wide financial crisis and bank bailouts as a sign of E.U. economic fragility, while avoiding mentioning the country in which both phenomena have arguably been most important and dramatic.

The book is much more interested in Charles de Gaulle than in Alistair Darling. For British readers, increasingly lacking serious news coverage of their European neighbours, Anderson’s continental bias is mostly a valuable corrective. An extensive section on Turkey, Cyprus and the E.U.’s eastward expansion reinforces the sense of the non-Anglo-Saxon world being expertly explained to rather under-informed pupils. The pivotal 20th century Turkish leader Mustafa Kemal Ataturk, like de Gaulle, is treated with a degree of admiration that suggests Anderson likes tough, wily politicians, even if they have conservative leanings, just as he likes tough, conservative writers.

Sometimes, he concludes, paraphrasing a view of Trotsky’s, “Reaction [can] solve... tasks the revolution [has] failed to acquit.” Anderson sees today’s E.U. in those terms: essentially a right-wing project but retaining radical potential. Until the European Left revives – and he is bleak about the chances of that – the E.U. may be the realistic leftist’s only practical vehicle. Its unfinished, messy quality, he writes, “might... [given] the unintended consequences that have tracked integration from the start... yield further, better surprises.”

And if the revolution never comes? I suspect Anderson’s services will still be very much in demand.
Islam in Kerala

Five books that bring out the distinct ethos of Kerala’s Muslims. BY A.G. NOORANI

Kerala is a devastating refutation of Mohammed Ali Jinnah’s two-nation theory and its corollary, Muslim “homelands” are only in Pakistan provinces. Islam came to Kerala before it reached northern India and is practised with greater devotion and with none of the sectarian bigotry witnessed in Pakistan. It strikingly resembles Kashmir and not just in the beauty of the land or the exquisiteness of its food, its Muslims have a distinct ethos and are proud of it. The architecture of the mosques in Kerala as in Kashmir is altogether different.

These five books must be appraised along with their publishers. Other Books is an independent book distribution and publishing initiative by a collective of university students, academicians and social activists to widen contemporary discourse on various subjects distributing and publishing books that seek to embrace alternative and critical perspectives.

It seeks to provide solutions for serious readers and focus on the promotion and spread of alternative knowledge and original ideas through locating, printing, publishing and distributing non-mainstream books to serious-minded readers. A wide range of topics is covered, ranging from post-modernism to Islam to organic farming. It also networks with all reputed national and international publishers to make available the books at lowest rates.

*Tuhfat al-Mujahidin* is the first in that series. First written in Arabic in the late 16th century, it is a pioneering historical work dealing with the struggles of the Malabar Muslims against the Portuguese colonisers’ encroachment in India, and the rise of Malabar as a medieval naval force under the Zamorin of Calicut. Republication of this anti-colonial manifesto comes at a time when Muslims continue to be an obstacle to Western imperialistic ambitions. The book is a study in liberation theology of Islam.

P. Govinda Pillai, a leading Marxist critic and journalist in Kerala, has called it “an important event not only in the historical studies of Kerala but in the history of Kerala historiography. This is the first work based on the history of Kerala authored by a Keralite, albeit in Arabic. Moreover, like Thucydides’*Peleponnesian War*, *Tuhfat* is credited with extraordinary historicity, since the author narrates events in which he took part in many ways and which he witnessed…. The crux of *Tuhfat* is the heroic war waged by the legendary naval leader Kunjali Marakkar and his warriors alongside Calicut Zamorin from 1498 to 1583. Zainuddin was not only describing the events one by one chronologically. But he details with his analytical prowess as befitted a good historian the lifestyle, customs and family structure of the people of the time.”

The author was a historian, an observer of society and culture and an outstanding scholar. *Tuhfat* was written by Makhdum, who was born in 1517, presumably in the later part of the 16th century. It took centuries hence, sharply until the second half of the 20th century, for Malayalis to read a comprehensive history either of the whole Kerala or a certain part of it.

As part of its venture Other Books republished the Iranian dissident Ali Shariati’s famous work *Religion vs Religion*. The book has not been confronted with unbelief so much as it has been by religion shorn of morality and reason.

Two able studies on the vibrant Muslim community of Kerala, one on history by Dr Hussain Randhathani and the other on modern times by Prof. U. Mohammed help in understanding a people devoted to constructive pursuits. It seems incongruous but is not. Lathika George’s book on recipes from the Syrian Christians of Kerala is meant not only for those who toil in the kitchen but also for people like you and me.
A tale of passion

Orhan Pamuk’s first novel since he won the Nobel Prize is an enthralling, immensely enjoyable piece of storytelling. BY JAMES LASDUN

This is a tricky time, one would think, for a literary novelist to offer up a 500-page story of a man’s obsessive love for a younger woman. Fixation no longer reads as romantic, and the sexual politics of the subject would seem likely to dampen anything more wicked. Besides, in the age of speed-dating and hook-ups, does the notion of a lifelong, all-consuming amour fou still have any real currency?

In The Museum of Innocence, his first novel since winning the Nobel Prize, Orhan Pamuk strolls into this minefield with serene confidence, his own enterprise courting the same unease as that of his protagonist, Kemal Basmaci. Kemal, a wealthy Istanbul playboy, spends a decade besieging his beautiful young cousin and then, after certain tragic events, devotes the rest of his life to creating a museum in her memory, stocking it with panties, nut-crackers, china dogs, 4,213 cigarette stubs and sundry other trifles recovered from their moments together.

Adding to the fraughtness (and disquieting pleasure) of the endeavour is its setting in a society – upper-class Istanbul of the 1970s and 1980s – poised uncomfortably between modern and traditional attitudes to love and sex, with Eros half out of his cage but honour and shame still coordinating the perception of private conduct. I doubt whether the subject of a woman’s virginity has been so firmly at the forefront of a significant novel since Samuel Richardson’s Clarissa.

The first part reads like a classic tale of reckless passion colliding with bourgeois convention. Kemal is happily engaged to Sibel, a suitable woman from his own class. Daringly, she has already, as Kemal puts it, “given me her virginity”, though only because she trusts in his honour as her betrothed. But as the engagement party approaches, Kemal runs into his sweet, 18-year-old, declassee cousin, Fusun, working in a boutique, and the two become rapidly, catastrophically, infatuated with each other. Before long Fusun, too, has “deliberately elected to give her virginity” to Kemal (the deflowering is ominously juxtaposed with images of the Feast of the Sacrifice, with lambs being butchered on every corner of Istanbul), and she vows never to sleep with another man. Kemal, at this point merely a charming egotist, believes he can have his cake and eat it, even going so far as to persuade Fusun to attend his engagement party.

The long party scene, set at the Istanbul Hilton, is a tour de force, a controlled detonation of explosive emotional materials that have been expertly laid and primed in the foregoing chapters. Like any grand act of destructive passion, it is both agonising and riveting to read, not only for the shattering impact on the three principal lives but also for the way their drama ripples out through the lives of their families and friends. The large-scale social portraiture of The Museum of Innocence is beautifully assured; lightly satirical but also affectionate; a very tender evocation of Istanbul’s moment of dolce vita (Mastroianni would have made a perfect Kemal). Pamuk, who writes himself in as one of the guests at the Hilton, clearly knows this world well, and personally I found it much more sharply drawn than that of the provincial intellectuals and Islamists of Snow.

In keeping with the many twists and surprises in this section, the party ends, not with the breaking-off of the engagement (this comes later) but with the hurt withdrawal of Fusun. Her disappearance awakens Kemal to the depth of his attachment to her, prompting an increasingly desperate quest to track her down in the hope of recovering his lost happiness. A wonderfully vivid portrait of Istanbul emerges in the process.

At this juncture, as violent political upheavals begin to rock Istanbul, the book undergoes a radicalisation of its own, shifting gear from more or less
conventional social comedy to something closer to the modernist era’s case histories of psychological extremism. Italo Svevo’s neurotic monomaniacs, in particular, come to mind as Kemal proceeds to drag himself through the increasingly painful stations of obsessive love.

When he does find Fusun, she is married to an aspiring film-maker, both of them living with her parents in a poor quarter of the city. Convinced that he can win her back by drinking the cup of humiliation to its bitterest dregs, Kemal befriends the parents, offers to finance the husband’s film, and spends the next nine years as an increasingly pathetic appendage to the family, eating at their table almost every night, abandoning his friends, mismanaging his business, and letting his former gilded existence fall steadily into ruin. Throughout this binge of self-abasement he drifts in and out of a state of morbid, precarious ecstasy, fuelled by the little personal objects – contents of his future museum – that he pilfers from the household and pores over in the solitude of his own room, licking and sucking them in an effort to recreate the precise look or gesture of his beloved that each piece has been selected to memorialise.

Though the narrative remains compelling as it darkens from love story to study in florid pathology, it does become, in some ways, problematic. The compulsive pilfering along with the museum itself are certainly an inspired variation on the Proustian idea of recoverable time. But having established the conceit, Pamuk does not so much develop it as reiterate it. The pilfering gets worse, the sucking and licking and rubbing more frenzied, the vision for the museum increasingly grandiose, but after awhile one begins to hope the idea might go somewhere new. It does not, really, or only to the extent that the last section, with its surprise notes of happiness, seems to want to recast pathology as romance after all, a questionable reversal.

On the other hand, stasis, repetition, sheer duration have their own meaning in fiction, however challenging they may be to the reader. They can monumentalise a character, and they certainly do here. Kemal emerges from this book as a worthy descendant of the colossi of blighted love, with elements of Bluebeard, Miss Havisham, Humbert Humbert, even Citizen Kane in his make-up.

And then too, a gesture or state of mind sustained long enough in a novel inevitably forces one to consider it as metaphor. In this respect Pamuk strikes a fine balance between suggestion and discretion. Periodically his hero reflects on the meaning of his own story. He discusses his fetishistic rituals in connection with Aristotle’s distinction between the continuum of time and the individual moments by which we experience the present. He makes claims for himself as a cultural investigator: “I was driven by the very question that lay at the heart of what it meant to be a man or a woman in our part of the world.” In his engagingly scrupulous, almost childlike manner (very well rendered by Pamuk’s translator, Maureen Freely), he even offers himself as bringer of enlightenment into the shadows of primeval shame: “With my museum I want to teach not just the Turkish people but all the people of the world to take pride in the lives they live.”

As the faintly crazed tone of that last remark suggests, he is not the most reliable of narrators. But even so these assertions indicate the general direction in which the metaphorical aspect of the book develops. And beyond Kemal’s own self-analysis, a number of other interpretations offer themselves. You can read him as an antigen to the brutal model of masculinity prevailing in his own culture, a kind of saint of rejection and patience. Or, given the systematic way in which his pursuit of Fusun is mapped over the book’s richly detailed portrayal of Istanbul, you can read his story as a love affair with a beautiful, enigmatic, wounded city.

Yet this is not in any way the kind of book that requires decoding or exegesis in order to be appreciated: these are merely an indication of the large resonance of its inventions. Before anything else, it is simply an enthralling, immensely enjoyable piece of storytelling. © Guardian News & Media 2010
MICHAEL MOORE has been accused of many things. Mendacity. Manipulation. Rampant egotism. Bullying a frail old man with Alzheimer’s. And this is by people who generally agree with his views. His latest film *Capitalism: A Love Story* is already out in the United States when we meet. He comes storming down the hotel corridor, predictably unkempt in ragged jeans that have the unusual quality of appearing both too large and too small at the same time.

I was not sure what to expect. Arrogance, perhaps. Cynicism. But he begins to schmooze while he is still some distance away, shouting he feels he knows me. A few months ago, one of Moore’s producers interviewed me for the film. I was cut from the finished version, but Moore says he watched my every word. Settled on a couch, I ask why he has not managed to persuade the downtrodden, uninsured, exploited masses to revolt. “My films don’t have instant impact because they’re dense with ideas that people have not thought about,” he says. “It takes a while for the American public to wrap its head around some of the things I’m saying. Twenty years ago I told them that General Motors was going to collapse and take a lot of towns down with them. I was ridiculed, and GM sent around this packet of information about me, my past writings – pinko! With *Bowling for Columbine*, I told people that these shootings are going to continue; we’ve got too many guns, too easy access to the guns. [In *Fahrenheit 9/11*] I’m telling people that we’re not going to find weapons of mass destruction in Iraq; we’ve been lied to.”

*Capitalism: A Love Story* seems the natural culmination of all his other films, an overarching look at the insidious control of Wall Street and corporate interests over politics and lives. Its timing is exquisite, coming in the wake of the biggest financial collapse in living memory. And once again Moore is bracing himself: as the film drew to a close at its premiere in Los Angeles, he posted a message on Twitter: “The packed house gets up to grab their torches and pitchforks ...”

The film is certainly shocking. Early on, Moore sets out the meaning of “Dead Peasants” insurance. It turns out that a company with a revenue larger than any other in the world bets on its workers dying, taking out life insurance policies on its 350,000 shop-floor workers without their knowledge or approval.
When one of them dies, the company, which runs a chain of department stores in different parts of the world, claims on the policy. Not a cent of the payout, which sometimes runs to $1 million or more, goes to the family of the dead worker, often struggling with expensive funeral bills. The company keeps the lot. If a worker dies, the company profits.

This company is not alone. Moore talks to a woman whose husband died of brain cancer in 2008. He worked at a bank until it fired him because he was sick. But the bank retained a life insurance policy on the unfortunate man and cashed it in for $4.7 million when he died. There were gasps from the audience in a Washington cinema at that.

They came again as Moore focussed on the eviction of the foreclosed. The Hacker family of Peoria, Illinois, filmed themselves being chucked out of their home because of skyrocketing mortgage payments. Randy Hacker, gun owner, observes that he can understand why someone might want to shoot up a bank. In a final twist, the eviction squad offers the Hackers cash to clear out their yard.

The Hackers are Republicans. So was the widow of the bank worker. It is the gap, between the ordinary American – Democrat or Republican, middle class or dirt-poor – and predatory banks and mammoth corporations that Moore has made his target ever since Roger and Me, his first film, set out to expose the damage wreaked by General Motors on his hometown of Flint, Michigan.

“One movie maybe can’t make a difference,” Moore says. “I’ll say, what’s the point of this? What do I want [my audiences] to do? Obviously, I want them to be engaged in their democracy. I want them to get off the bench and become active.”

AFRAID OF SICKO

Last summer something happened that renewed Moore’s conviction that his film-making was politically worth-while. “I’m in the edit room and there’s Bill Moyers on the TV interviewing the vice-president of Sigma health insurance. Massive, billion-dollar company. He’s sitting there, telling the country that he’s quit his job and he wants to come clean. That he and the other health insurance companies got together and pooled their resources to smear me and the film Sicko to try and stop people from going to see it because, as he said, everything Michael Moore said in Sicko was true, and we were afraid this film would be a tipping point.

“I came away from that, with ‘Wow, they’re afraid of this movie; they believe it can actually create a revolution.’ The idea that cinema can be dangerous is a great idea.”

Moore’s critics would argue this is his ego speaking. The idea that his film about the failings of the U.S. health care system was on the brink of prompting a revolution of any kind looks all the more far-fetched given how the political fight over the issue has panned out. But if Moore’s primary intention is to send up a warning flare, to alert Americans to what is going on in their country but is not usually reported, he has been pretty successful.

At the end of Capitalism: A Love Story, Moore makes a pronounce-ment: “Capitalism is an evil, and you cannot regulate evil. You have to eliminate it and replace it with something that is good for all people and that something is democracy.” Michael Moore once planned to be a priest. In his youth he was drawn to the Berrigan brothers, a pair of radical priests who pulled anti-Vietnam war stunts such as pouring blood on military service records.

In an instructive moment for Moore, the brothers made it clear they were not just protesting against the war but against religious organisations that kept silent about it.

FOR A NEW ECONOMIC ORDER

These days he disagrees with Catholic orthodoxy exactly where you would ex-
pect him to – he supports abortion rights and gay marriage – but he credits his Catholic upbringing with instilling in him a sense of social justice and an activism tinged with theatre that lives on his films. But what does it mean to replace capitalism with democracy? He sighs and tries to explain. In the old Soviet bloc, he says, communism was the political system and socialism the economic. But with capitalism, he complains, you get political and economic rolled into one. Big business buys votes in Congress. Lobbyists write laws. The result is that the U.S. political system is awash in capitalist money that has stripped the system of much of its democratic accountability. "What I’m asking for is a new economic order," he says. "I don’t know how to construct that. I’m not an economist. All I ask is that it have two organising principles. Number one, that the economy is run democratically. In other words, the people have a say in how it’s run, not just the 1 per cent. And number two, that it has an ethical and moral core to it. That nothing is done without considering the ethical nature, no business decision is made without first asking the question, is this for the common good?"

These days Moore, the son of a Flint car worker, lives in the small town surrounding Traverse City with his wife, Kathleen Glynn, and stepdaughter Natalie, a four-hour drive and a world away from where he came from. But Traverse City, which is on Lake Michigan, has endured its own decline. If one walks along the restored foreshore, one can see a sign that says the city was once a major lumber exporter. Now it is known as the "Cherry Capital" of America.

Moore’s America, in his own words


"I say stupid white men are always the problem. That's never going to change," after 9/11, in response to his publisher's pleas that he go easy on Bush.

"It was pretty much like any other morning in America. The farmer did his chores. The milkman made his deliveries. The President bombed another country whose name we couldn't pronounce," in Bowling for Columbine, 2002.

"There is a country I would like to tell you about. It is a country like no other on the planet. Many of you, I am certain, would love to live there. It is a very, very liberal, liberated, and free-thinking country. Its people hate the thought of going to war. The vast majority of its men have never served in any kind of military and they aren’t rushing to sign up now.... The majority of its residents strongly believe in equal rights for women and oppose any attempt by the government or religious groups who would seek to control their reproductive organs...," 2003.

"There’s a gullible side to the American people. Religion is the best device used to mislead them... and we have disastrous media," 2003.

"I would like to apologise for referring to George W. Bush as a ‘deserter’. What I meant to say is that George W. Bush is a deserter, an election thief, a drunk-driver, a WMD liar and a functional illiterate. And he poops his pants," 2004.

"Halliburton is not a 'company' doing business in Iraq. It is a war profiteer, bilking millions from the pockets of average Americans. In past wars, they would have been arrested – or worse," 2004.

"When I first got here the theatre was boarded up," says Moore. "It was a mess. I said, look, let me reopen this theatre; I'll create a non-profit. It has brought, like, half a million people downtown in the first two years. If they're downtown, they go out to dinner, they go to the bookstore. It livens everything up. Stores open. Now there's no plywood on any windows."

"There is a country I would like to tell you about. It is a country like no other on the planet. Many of you, I am certain, would love to live there. It is a very, very liberal, liberated, and free-thinking country. Its people hate the thought of going to war. The vast majority of its men have never served in any kind of military and they aren’t rushing to sign up now.... The majority of its residents strongly believe in equal rights for women and oppose any attempt by the government or religious groups who would seek to control their reproductive organs...," 2003.
betrayed by the system they thought was working for them. But identifying their suffering, and even the cause of their problems, is very different from persuading them that capitalism is evil although they might just buy into what Moore says is the core message of his latest film – “that Wall Street and the banks are truly the enemy, and we need to tie that beast down and quick”.

His enemies in the right-wing media will be doing everything they can to ensure this does not happen, portraying him as a propagandist. And even some of his supporters say he is too willing to leave out inconvenient facts. But there is no denying some very powerful truths in Capitalism, one of which is that it did not need to be this way in America.

Moore has dug out of a South Carolina archive a piece of film buried away 66 years ago because it threatened to rock the foundations of the capitalist system as Americans now know it. President Franklin D. Roosevelt was ailing. Too ill to make his 1944 state of the nation address to Congress, he instead broadcast it by radio. But at one point he called in the cameras and set out his vision of a new America he knew he would not live to see.

Roosevelt proposed a second bill of rights to guarantee every American a job with a living wage, a decent home, medical care, protection from the economic fears of old age, sickness and unemployment, and, perhaps most dangerously for big business, freedom from unfair monopolies. He said that “true individual freedom cannot exist without economic security and independence”.

The film was quickly locked away. “The next week on the newsreels – and we’ve gone back and researched this – they didn’t run that,” said Moore. “They talked about other parts of his speech, the war. Nothing about this. The footage became lost. When we called the Roosevelt presidential library and asked them about it, they said it wasn’t filmed. His own family told us it wasn’t filmed.” Moore’s team scoured the country without luck until they were given a tip about a collector connected to the University of South Carolina.

ROOSEVELT’S ‘HIDDEN’ WISH

The university did not have anything archived under FDR’s speeches that fitted, but there were a couple of boxes from that week in 1944. “We pop it in. It was all there. We had tears in our eyes watching it. For 65 years, not a single American saw that speech, not one. I decided right then that we’re going to fulfil Roosevelt’s wishes that the American people see him saying this. Of all the things in the film, probably I feel most privileged that I get to share this. I get to give him his stage.”

It is a powerful moment not only because it offers an alternative view of American values rarely spoken of today – almost all of which would be condemned as rampant socialism – but also an interesting reference point with which to compare the more restrained ambitions of the Barack Obama administration.

It is hard to imagine any circumstances in which Obama could put forward such an agenda, I suggest. Moore disagrees.

“He could make that speech.”

And survive politically?

“He has told people he’s going to operate these four years not with an eye on getting re-elected but on getting things done. I have been very happy for the last year. We came out of eight dark years and his election was – what’s the word? – the relief I felt that night, I’ve been filled with hope since then. Now my patience is running a bit thin. He hasn’t taken the reins and said: I’m in charge here, this is what we’re doing. Do it. I can understand he’s afraid but he’s gotta do it.”

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Targeting tourists

The increasing number of incidents of rape and molestation of foreign women tourists is a cause for concern.

Most of us were appalled to hear of the rape of a nine-year-old Russian girl in Goa. The police gave the media the names of the two men involved, both Indian, and one of them has been arrested at the time of writing this. Reports say that both were workers at a local pharmaceutical unit; in other words, they were just ordinary men who earn their livelihood like thousands of others. They were not thugs or loafers who hang around tourist spots trying to rob, rape or even murder. They were ordinary people with ordinary jobs until they saw the white woman and her daughter.

Some years earlier, a taxi driver and his friend, waiting for a fare at the Delhi airport, picked up a white Australian woman, and then, taking her to a lonely spot nearby, raped and killed her. They also made off with whatever she had by way of cash and valuables. Again, some years earlier, a couple of men spotted a white woman coming out from a screening at a film festival in Delhi, got into her car with her, raped her and then pushed her out at a spot not very far from the venue. And, more recently, there is the still unsolved rape and murder of an English teenage girl on holiday in Goa with her family and the rape of a Russian woman by, it is said, a local politician.

Point of View

BHASKAR GHOSE

Not that these are the only rape cases that have occurred. Thousands of girls, some of them mere infants, and women have been raped. But the cases I have mentioned seem to indicate that, for some, having sex with a white woman seems a more exotic thrill. The reasons are, for the moment, irrelevant. It seems to be something that is increasing as more and more white women come to tourist destinations such as Goa, Pushkar in Rajasthan, and Delhi.

Think back for a moment to the key themes of the plots of two novels: E.M. Forster’s A Passage to India and Paul Scott’s The Jewel in the Crown. Both had to do with the presumed rape of Englishwomen by Indians. In both cases the rapes had not, in fact, taken place, but the point was that the general assumption among the ruling British community was that they had. What both Forster and Scott used as a factor to develop the plots of their novels was the fear and horror of rape of white women by “natives”, the blacks – the ultimate violation. Underlying that fear was another assumption among the British – that the natives secretly lusted after white women and would rape them if they could.

Both novelists showed up these fears as imaginary but well grounded in the community and strong enough to cloud the judgment of otherwise rational people. The fears were seen as part of the prevalent racial prejudice, which, of course, had a great deal to do with the fact that the whites were the ruling class.

I mention this because this is a fear that may well grow in the coming years, going by the number of incidents of rape and molestation of white women tourists in the country. Foreign nationals do not know that these are only a small part of the large number of rape cases that occur in the country. Many of these are never reported, and even if they are, in many cases, the police do not record them because the complainants are poor and often homeless, the kind of people the police do not consider worthy of any notice by them. If the media come to know of the cases, then, of course, there is much scurrying around and a newly found moral sensitivity that will last as long as the media keep reporting these incidents.

And dreadful though the facts are, they are undeniable. Most rapists are members of the family or are relatives or friends. In most of the other cases, they are ordinary people who come across a girl who happens to be alone. The veneer of civil behaviour is, among a worryingly huge number of people, very thin indeed. Seeing a girl on her own is enough for it to crumble and for them to let their brutish lust and sexual urges to take over. The taxi driver who raped and murdered the Australian woman a few years ago said when he was caught that he could not “control himself”. In Delhi, girls travelling on public buses have at one time or the other been groped, had lewd com-
ments made about them, and even been the subject of sexual advances. They endure this as they have to get to their workplaces or colleges. None of this gets reported, but residents of the city know this happens day after day. An interesting aspect of this, as some girls have told me, is that the ones who do the groping are, for the most part, middle-aged or even elderly men.

In 2007, according to the National Crime Records Bureau, there were 20,737 recorded cases of rape in the country, that would mean roughly about 57, say nearly 60 a day. The actual figure is undoubtedly far higher. Of these, nearly 60 per cent were in the northern States and the eastern State of West Bengal. Raping or molesting white women is seen, it is apparent, as in a class by itself. True, there are not too many such cases – at least, not reported – but those who have done it have usually gotten away with it. In just one case, where a German girl was raped in Pushkar, was the rapist convicted by a fast-track court. In every other case, the accused person has either not been caught (as in the case of the woman raped outside the auditorium in New Delhi) or the investigation has been botched up as in the rape and murder of the English teenager in Goa, or is still going on as in the case of the Russian woman raped in Goa.

One gets tired of the usual, mindless response from Ministers and senior bureaucrats – that they have “called for a report”. At times the police issue press releases to say that they have “registered the complaint”, as if this is a major achievement. The fact is that the authorities have generally been astonishingly ineffective.

Today, as every woman in northern India knows, it is clear that women live in a very unsafe environment. They have to make sure they never ever stay out late, and if they do, they have to ensure they are with totally trustworthy people. They must never talk to strangers for any reason and must generally stay indoors, preferably with the doors locked. It is time that the tourism authorities had a relook at their slogan Atithi devo bhava.

TOURISTS, WRAPPED IN woollens, on a foggy day in New Delhi. Whether the rape victim is an Indian women or a foreign tourist, the response of the authorities to the crime has often been condemnable.
Behind the concern

In the name of national security, a FICCI report makes a thinly veiled argument to open up central India for exploitation by corporations. BY ASHISH KOTHARI

“Just when India needs to ramp up its industrial machine to lock in growth and when foreign companies are joining the party, the naxalites are clashing with the mining and steel companies essential for India’s long-term success,” says the report.

JUST as on climate change, everyone has an opinion on naxalism these days. The latest to join the chorus is the Federation of Indian Chambers of Commerce and Industry (FICCI). On November 9, FICCI released a report of its Task Force on National Security and Terrorism. The report takes on the question of terrorism from outside India and the internal security threats brewing in central and northeastern India. The report refers to naxalism as a “war in the heartlands” and is unequivocal in its stand that everything must be done to defeat the forces of internal destabilisation represented by Maoist groups. But while clothing its analysis in the garb of national and local security, the report is actually a thinly veiled argument to open up central India for exploitation by corporations.

FICCI’s diagnosis of the problem is relatively well nuanced and not restricted to the security failures of the state. The report talks of “our long neglect of development in tribal areas, which has created large pockets of alienation against the government”, “criminal neglect of the rural economy, scorched earth policy in the rural agrarian sector with feudal lords in command, unemployment, poverty and unbridled exploitation of the poor”. It notes that “people living in remote village clusters, where there is no tangible presence of governance, nor developmental activities and are subject to rampant corruption by the government officers and exploitation by the landlords and loan sharks, gradually start looking up to the Maoists for protection”. It admits that the state’s response to naxalism, in the form of coercion and force not only against Maoists but also against “innocent villagers”, only alienates people more.

It even notes that the Salwa Judum drive in Chhattisgarh, a widely criticised state-sponsored attempt at generating people’s resistance to naxalites, is self-defeating in the way it has violated human rights. Because of all this, the hold of Maoists on local people is clearly much greater than the legitimacy of the state, it says.

So far so good. But the report soon betrays FICCI’s real interest in stopping the “war in the heartlands” of India. The very first paragraph of the chapter dealing with naxalism reveals the bias, when it talks of central India as “mineral rich heartlands”. Later on it argues that “the growing Maoist insurgency over large swathes of mineral-rich countryside could soon hurt some industrial investment plans”. All pretence of concern for the people of the region is thrown away when it asserts: “Just when India needs to ramp up its industrial machine to lock in growth and just when foreign companies are joining the party, the naxalites are clashing with the mining and steel companies essential for India’s long-term success.”

So development in India is a “party”. Never had corporations had it so good in the country’s history. Even the most culturally and ecologically sensitive areas are being opened up in the name of rapid growth and globalisation to mining, industries,
ports, expressways and the like. Profits of companies have skyrocketed, what with cheap raw materials and labour, tax breaks, relaxation of land and environmental laws, and all kinds of incentives offered by the Central and State governments. The so-called ‘free market’ is actually able to show remarkable progress because the state heavily subsidises it. And it does so at the expense of millions of people whose land and resources and water are taken away to be handed over to corporations. The state even backs this up with the use of force against anyone who resists. A March 2009 report by a committee set up by the Union Ministry of Rural Development (www.rd.ap.gov.in/IKPLand/MRD_Committee_Report_V_01_Mar_09.pdf), made public in October, called the process in central India the “biggest grab of tribal lands since Columbus”.

The FICCI report itself admits to “the grievances of the rural peasantry, especially against their displacement due to development projects and corning of the benefits of natural resources by a few”. It further says, “Judging from their past experience with development, the tribals have a right to be afraid of the mining and constructions that threaten to change their environment”.

And yet, in the same breath, it rues the fact that naxalism is making such projects difficult to execute. This schizophrenia becomes acute in one particularly revealing paragraph: “The other reason for sounding the alarm stems from the increasingly close proximity between the corporate world and the forest domain of the naxalites.... India’s affluent urban consumers have started buying autos, appliances, and homes, and they’re demanding improvements in the country’s roads, bridges and railroads. To stoke Indian manufacturing and satisfy consumers, the country needs cement, steel, and electric power in record amounts..... There is a need for a suitable social and economic environment to meet this national challenge. Yet there’s a collision with the naxalites.... Chhattisgarh, a hotbed of naxalite activity, has 23 per cent of India’s iron ore deposits and abundant coal. It has signed memoranda of understanding and other agreements worth billions with Tata Steel and Arcelor Mittal (MT), De Beers Consolidated Mines, BHP Billiton (BHP), and Rio Tinto (RTP). Other States also have similar deals. And U.S. companies such as Caterpillar (CAT) want to sell equipment to the mining companies now digging in eastern India.”

So, naxalism is bad because it is spoiling the “party” for India’s “urban affluent consumers”. Is this the real reason for FICCI’s concern?

If the report of the Ministry of Rural Development committee referred to earlier is to be believed, corporations are primarily interested in emptying the central Indian ruralscape so they can easily get access to its enormous land, minerals and forest resources. Here is what it says: “The first
financiers of the Salwa Judum were Tata and the Essar in the quest for 'peace'. The first onslaught of the Salwa Judum was on Muria villagers who still owed allegiance to the Communist Party of India (Maoist). It turned out to be an open war between brothers. 640 villages as per official statistics were laid bare, burnt to the ground and emptied with the force of the gun and the blessings of the state. 350,000 tribals, half the total population of Dantewada district [Chhattisgarh] are displaced, their womenfolk raped, their daughters killed, and their youth maimed. Those who could not escape into the jungle were herded together into refugee camps run and managed by the Salwa Judum. 

“Others continue to hide in the forest or have migrated to the nearby tribal tracts in Maharashtra, Andhra Pradesh and Orissa. 640 villages are empty. Villages sitting on tons of iron ore are effectively de-peopled and available for the highest bidder. The latest information that is being circulated is that both Essar Steel and Tata Steel are willing to take over the empty landscape and manage the mines.”

**HOLLOW AND DANGEROUS**

It is in this light that FICCI's recommendations to contain the problem sound not only hollow but dangerous even though at first glance they may appear balanced. The report provides detailed suggestions on enhancing the operations of the security forces and also argues that “the development approach is even more important than the military approach”. It asks for “national and state policies, including accelerated economic development, social justice, security and media policies”, that “employment, land reforms and development of road infrastructure in tribal areas must be given the highest priority”, and that “tribal areas have to be developed on a crash basis”. It even mouthed the usual platitudes of “involvement of the people in... governance and development”.

Sounds good, except that nowhere does FICCI acknowledge the need for very different models of development than what have been practised elsewhere in the country. Many of India’s leaders around the time of Independence recognised that the cultural and ecological contexts of Adivasis were vastly different from those of others and that development or other inputs must respect this. The Indian Constitution provided for this different approach. But large-scale mining, industrialisation and infrastructure are hardly going to be sensitive to the ethos and lives of communities that are intimately connected to the land, forests and water in ways that urban decision-makers do not understand.

In all tribal areas of the country, and indeed in most areas with traditional pastoral, peasant and fisher communities, such ‘development’ has been environmentally and culturally devastating and has hardly benefited these communities. This partly explains the massive exodus of people out of such areas, the growing economic disparity between them and urban elites, and the rapidly increasing movements of mass resistance. In such situations, all talk of land reforms and participatory governance is meaningless. It is worth noting that the report has no mention of Adivasi rights. Corporate leaders of Indian and foreign companies are hardly the legitimate flag-bearers of sustainable and equitable development. The track record of most of the companies that the FICCI report names, which have signed MoUs with the Chhattisgarh government, is not pretty. Some are globally known for their unethical practices and their lack of compunction in depriving indigenous peoples of their traditional territories and rights. FICCI’s recommendation of tribal areas being “developed on a crash basis” really entails the crash of Adivasi economy, ecology and culture.

It is, therefore, not surprising that the report, in its recommendations on “what corporates can do”, has nothing on building on responsibility and ethical behaviour towards Adivasis and the environment. All the suggestions are on how the corporate sector can work with the government and on their own to improve security. No mention of leaving alone areas that are crucial for food, water and ecological security. No hint of facilitating communities to develop their economic base building on their own knowledge and cultures, moving towards sustainable patterns of energy and food production, or simply leaving alone Adivasis who do not want to enter industrial modes of production (yes, they exist, and they are not anachronisms in a world that is desperately seeking sustainable ways of living). It is as if FICCI has decided that it knows what is best for Adivasis and forest areas, and that there is only one way to develop: massive industrialisation. Anything that is a hindrance to this has to be dealt with by the state.

This is not to argue that naxalism (in its many variants) is a solution or is to be condoned simply because it may be slowing down the destructive ‘development’ of central India. If at all Maoist groups have a coherent vision of human and social welfare or of economic development, it is not clear from the activities they engage in. Nor is violence to be supported. But FICCI’s vision of the security and future development of central India is only a recipe for further devastation and alienation and is violent in a different way.

A bold alternative would instead encompass paths of Adivasi well-being that are ecologically and culturally sensitive, that respect the enormous diversity of local situations, and that promote localised economic strategies based on the sustainable use of local resources. It would recommend the clear assigning of land and resource rights, along with conservation responsibilities. It would promote true decentralisation, empowering communities to decide their own future. There are in fact many civil society initiatives of this nature across central India from which to learn. Provided they are not bulldozed by the current approaches that the Indian state and Indian corporations are taking or propose to take.

Ashish Kothari is with Kalpavriksh – Environment Action Group.
Eviction fear

A court-appointed committee will soon decide the fate of several thousand tribal people living in or around the Nagarhole forest. BY VIKHAR AHMED SAYEED IN HUNSUR

The sad part of the debate on whether they should be allowed to live in the forests is that they are not heard. They continue to remain without a say in the decisions being made about their lives.

The forests of Nagarhole, spread across the districts of Mysore and Kodagu in southern Karnataka, are about four hours’ drive from Bangalore. Officially known as the Rajiv Gandhi National Park (RGNP), these forests along with the surrounding forests of Bandipur, Madumalai (in Tamil Nadu) and other smaller forests form the ecologically unique and sensitive Nilgiri Biosphere Reserve. A few kilometres into the forest, travellers will encounter a small village called Kollengere haadi (tribal hamlet) along the main road that connects the towns of Hunsur in Mysore district and Kutta in Kodagu district. Kollengere consists of 17 houses and 28 families, and the residents, mainly tribal people of the Jenu Kuruba tribe, might soon have to leave their village and move to territories outside the forest. Their fate, along with that of several other haadis, rests on the recommendations of a committee that will soon be submitting its final report to the High Court of Karnataka.

The RGNP, one of the best maintained national parks in the country, covers 643 sq km of tropical forest. It was established as a sanctuary in 1955 and was designated as a national park in 1975 following the enactment of the Wildlife Protection Act (WPA) in 1972, which led to a significant increase in the number of national parks across the country. Nagarhole is usually cited as a success story when it comes...
to conservation, considering the great difference noted after 1972. The RGNP was brought under the purview of the nationally successful “Project Tiger” in 2000. (The adjoining Bandipur National Park was one of the earliest to be brought under the scheme, in 1973-74). Nagarhole is also well known for its population of elephants, leopards and many rare species of birds and animals.

Nagarhole has also been home to several tribal communities, including Jenu Kurubas, Yeravas, Betta Kurubas and Soligas. Jenu Kurubas (jenu means honey in Kannada) are one of the two primitive tribes found in Karnataka and are the most populous tribal community living in and around the RGNP, with their population in Mysore district estimated at 19,246. (There are 75 tribes in India classified as primitive, and these are the most backward among the Scheduled Tribes.) When the WPA came into force, the lives of tribal people living in forests across the country changed; the status of the tribal communities living in Nagarhole was also affected.

Said P.K. Ramu, a Yerava and a member of the Budakattu Krishikara Sangha (BKS), an organisation representing the interests of primitive tribes in Hunsur taluk: “There was gradual pressure on us to leave the forests and move out. There was interference from the Forest Department when we were engaged in our traditional occupations within the forest. The authorities stopped paying us compensation for damage from elephants to the light crop that we raised inside the forests.” According to other tribal people who spoke to Frontline, the government also registered cases against people who collected minor forest produce (MFP) after 1972.

The displacement from national park areas was significant in the 1970s and the 1980s for several reasons, including the construction of dams. Several hundred families have moved out from the forests after the 1970s. A report titled “A Report on the Development of Tribals Living in the Hilly and Forest Areas of Mysore District” that the district administration of Mysore prepared some time ago pointed out that close to 6,000 families had moved out of Bandipur and Nagarhole when these areas were declared national parks after 1972. The construction of the Kabini dam and reservoir (construction work on this dam began in 1959 and ended in 1974) and the Taraka dam also displaced several hundred families.

In 1992, after the amended WPA was passed, several families moved out of the forests; accounts vary as to whether their displacement was voluntary or not. Around this time there was a forest fire in Nagarhole, which ranged the State administration against the tribal people as there was intense speculation that they were responsible for starting the fire.

The tribal communities had by this time organised themselves with the support of the BKS and the Rajya Moola Niwasi Vedike (RMNK) and started an “enter the forest” agitation. Tribal communities forcefully entered the forest in 1995 demanding their indigenous rights. The organising strength of these groups was also responsible for the agitation against the Taj group, which had in 1997 planned to set up a five-star resort close to Murkal in the heart of the forest. During this time, tribal families were gradually leaving the forests. In 1999, Development through Education (DEED), a non-governmental organisation working for tribal rights, along with the BKS filed a public interest petition in the High Court to prevent the proposed evacuation of tribal families.

In 2004, the court appointed a committee headed by Muzaffar Assadi, a political scientist and a well-known commentator on political affairs in Karnataka, to verify the facts of the matter and present a report with its recommendations. The committee came out with an interim report, titled “Interim Report on the Tribal Issues of the Rajiv Gandhi National Park (Nagarhole), in 2006. Its final report with all the recommendations was to have been submitted in mid-January, but the committee has asked for a three-month extension. The interim report comprehensively analyses the problem of the primitive tribes of the region. One of the most glaring observations it makes is that of the abysmal living conditions of the tribal people, almost all of whom are officially designated as living below the poverty line.

The report points out that many tribal people work in plantations in Kodagu district while living in haadis in the forest or in rehabilitated villages, and this perpetuates their poverty as they have remained daily-wage labourers without land-holding rights. This correspondent’s visit to the various villages confirmed these findings. In villages in Kodagu district, almost all the men in the working age group were away.
Even though there are several government schemes for the S.Ts, some particularly for primitive tribes (which means they would apply to Jenu Kurubas only), the condition of the tribal people remains bad. The reasons for this include the absence of proper rehabilitation and permanent jobs for them; the garnering of the various benefits meant for the S.Ts by a few dominant tribes; and the fact that according to the WPA no interference, even the construction of basic facilities, is allowed in forests after 1972. There is also a disconnect between the number of schemes available and what ultimately reaches the intended beneficiaries. According to S. Sreekant of DEED, 40 per cent of tribal children are malnourished and only 30 per cent of them can read and write.

The tribal people have historically remained on the margins of mainstream society. There is no clear agreement even among themselves whether they would like to be relocated outside the forests and whether this would lead to an improvement of their status. They are sceptical of compensation packages offered to them by the government and do not trust officials.

There are two sides to the debate about their status. On one side are certain NGOs and activists who see tribal people as part of the ecosystem of the forest, living in symbiosis with it. Sreekant, one of the petitioners in the 1999 public interest litigation (PIL), said: “We want the forests to be saved, and we are demanding that tribal people be rehabilitated on the fringes of the forest, apart from leaving a few hamlets that are located in the middle of the forest intact. By rehabilitating tribal people at the fringe of the forests, the state will be forming a natural buffer between the forest and the outside world, which will save the for-
Development Issues

The tribal people should also have the right to collect MFP. Some activists argue that the culture of tribal people will survive only if they continue to live in forests, and they want the areas to be declared as a Fifth Schedule area under provisions of the Constitution.

The other side argues that for the healthy development of the forest there should be zero human interference and that the tribal people should be relocated voluntarily outside the forests. Wildlife conservationists cite the example of the Bhadra Tiger Reserve in north-west Karnataka: After all the humans were relocated from the reserve, there was a significant improvement in its wildlife populations. Some people argue that tribal people should be relocated because only if they live outside forests can they be a part of modern life. Representatives of the State Forest Department who spoke to Frontline concurred with some of these opinions. In all of these debates, it is the tribal people who have no say.

The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act of 2006 complicated matters by recognising the rights of tribal people and forest-dwellers to possess land inside forests. The amendment to the WPA in the same year pertaining to core tiger reserves further complicated matters.

From 1999 to 2005, around 250 families were relocated to newly constructed hamlets outside the borders of the national park in a phased manner even as the PIL was waiting to be heard in the High Court. The families were provided houses and other facilities, including three acres of land though ownership rights were not given to them.

Harish’s family was one of the earliest to be relocated, in 2000. He lives in Nagapura, the main colony constructed for rehabilitated families. It is near Hunsur. When asked by Frontline whether he found life better in the rehabilitated village, he said, “Our lives might be better here but we do not have jobs.” The three acres that his family was given lies barren behind the village along with those given to the other members of the village. He cited “elephant menace” as the main problem and asked why the government could not have given them ownership of the land.

Another tribal villager complained that the government did not consult them while constructing the houses and providing agricultural land. This comment reveals a serious flaw in the methods followed by state actors, wildlife conservationists and NGOs working with tribal people – the lack of agency that is given to them. There is a general feeling amongst the various stakeholders involved, including the Forest Department, although no one was willing to say it on record, that the tribal people are “innocent” and that, therefore, decisions need to be taken for them.

Sources close to the High Court-appointed committee have pointed out that it might come closer to suggesting a solution that will balance the conservation needs of the forest with the rights of the people living within it if it advocates a rehabilitation plan that settles tribal people on lands that have been encroached upon in the RGNP. While officials at the Forest Department deny that there is any encroachment in the national park area, the committee’s interim report points out that certain parts of the forest have been encroached on by non-tribal agriculturists.

The committee’s recommendations will directly affect close to 1,300 families and will have an indirect impact on tribal families who moved out of the national park region earlier and who are demanding the rehabilitation benefits currently being offered.

But the sad part in this entire debate is that it looks like the tribal people will continue to remain without a voice in all the larger decisions being made. So the committee, which relied heavily on interviews with the tribal people to prepare its interim report, should make sure it involves them in the decision-making process.
IN most parts of the world today (except perhaps in India, where optimism about benefits of unregulated financial markets still seems to dominate over the undisputable evidence of their many fragilities), most policymakers talk about imposing regulations on the financial sector. Of course, the events of the past two years relating to the world economy, particularly in the core capitalist countries, have brought this about. It is quite a change from the earlier presumption of “efficient markets” which led to widespread lifting of controls, to “self-regulation” in the financial sector.

REGULATIONS
In the United States, President Barack Obama recently unveiled a set of proposals to control and regulate the activities of both bank and non-bank financial players. In the United Kingdom, the Governor of the Bank of England has been talking about the need to break up banks that are “too big to fail”. In many developed countries, public outrage generated by the economic destruction caused by finance is being expressed in the form of animosity against the large bonuses that are still being paid out to finance professionals.

The proposals that are now being considered, not only by the Obama administration in the U.S. but also in Europe and elsewhere, include imposing limits on the activities of particular types of institutions and ensuring that derivatives trading occurs only in regulated exchanges with clearly specified margin requirements, rather than in over-the-counter transactions that are completely unfettered.

These are all important and necessary changes. In fact, it is clear that without such changes, the economies of the core capitalist countries — and therefore the world economy — will continue to lurch from crisis to crisis, necessitating ever larger bailouts and leading to even greater damage to the citizenry. But the question is, are they feasible at all given the legally binding commitments made with respect to financial services liberalisation by the U.S. and several other members of the World Trade Organisation?

A relatively little known aspect of the General Agreement on Trade in Services (GATS) is that it — and its various elements and a related understanding signed by some members — affects the ability of countries to regulate financial services. While GATS is still the most flexible of the various Uruguay Round WTO agreements, as it is based on a request-offer process in which individual countries can determine the extent and pace of liberalisation in particular sectors and modes, there are some important caveats.

It is true that, as for all other services, member-countries are required to provide their own GATS schedules of financial services commitments. However, the Annex on Financial Services already imposes some crucial limitations on the ability of countries to be flexible on these commitments. The Annex applies to all WTO member-countries, irrespective of the extent to which they have individually or collectively decided to make liberalisation commitments in financial services.

The section on domestic financial regulation in the Annex makes the following point: “Notwithstanding any other provisions of the Agreement, a Member shall not be prevented from taking measures for prudential reasons, including for the protection of investors, depositors, policy holders or persons to whom a fiduciary duty is owed by a financial service supplier, or to ensure the integrity and stability of the financial system. Where such measures do not conform with the provisions of the Agreement, they shall not be used as a means of avoiding the Member’s commitments or obligations under the Agreement,” (emphasis added).

So, if countries have already made commitments to allow certain kinds of financial activities of foreign financial institutions, they cannot impose any prudential regulations (even when they are necessary for the stability and viability of the system) if they run counter to such commitments.

What this means is that much of the regulation now being considered or proposed in developed countries would run counter to this provision in the Annex to GATS. Any such regula-
Prudential Measures in WTO's Financial Sector

No Meaningful Safeguards for Online Service

The cross-border proliferation and complex entanglements of financial institutions, such changes seem to be almost inevitable.

**Irreversible Commitments**

It gets even worse. Public Citizen, a U.S. organisation that has done a lot of work on the implications of GATS for financial regulations, notes that the financial services liberalisation commitments that have already been made are apparently irreversible under GATS rules. This makes it next to impossible to make new regulations that are required to deal with finance today in strictly legal terms.

The GATS Market Access rules (contained in Article XVI [2] of the GATS text) prohibit government policies that limit the size or total number of financial service suppliers in “covered sectors”, that is, those in which liberalisation commitments have been made. So if countries have already committed themselves to certain kinds of deregulation, they cannot easily undo them, even in relation to critical issues such as bank size.

Under the same rules, a country may not ban a highly risky financial service in a sector (that is, banking, insurance, or other financial services) once it has been committed to meet GATS rules.

The case law on this matter is disturbing to say the least. A WTO tribunal has already established the precedent of this rule’s strict application: the U.S. Internet gambling ban – which prohibited both U.S. and foreign gambling companies from offering online services to U.S. consumers – was found to be violative of GATS’ market access requirements. This ruling was made even though the U.S. government pleaded that Internet gambling did not exist when the original commitment was made and, therefore, could not have been formally excluded from the commitment list.

For the 33 countries that have signed on to a further WTO “Understanding on Commitments in Financial Services” in 1999, the situation is even worse. These countries include almost all the members of the OECD (Organisation for Economic Co-operation and Development), and a few developing countries such as Nigeria, Sri Lanka and Turkey. This understanding established further deregulation commitments by specifying a “top-down” approach to financial liberalisation, which means that a sector is by default fully covered by all of the agreement’s obligations and constraints unless a country specifically schedules limits to them.

**GATS rules prevent any backtracking on liberalisation commitments that have been made.**

For the U.S., the U.K. and the other 31 countries that have signed the Understanding, there is effectively a standstill on further financial regulation of any kind: “Any conditions, limitations and qualifications to the commitments noted below shall be limited to existing non-conforming measures.” And there is no possibility of any kind of ban on specific financial products that are deemed to be too risky like certain derivatives, because the signatories have promised to ensure that foreign financial service suppliers are permitted “to offer in its territory any new financial service”.

What all this means is that most of the new reform proposals for the financial sector in the U.S., the U.K. and other major capitalist countries, are effectively illegal given their GATS commitments.

This has huge implications for other countries, since the extent of financial entanglement is such that all of us will be affected by the volatile functioning of unregulated financial markets. And since GATS rules prevent any backtracking on liberalisation commitments that have been made, it means that developing countries like India need to be doubly careful before making any commitments.

**Finance’s Political Power**

While this situation may appear to be bizarre and even incredible, it is a real comment on the immense political and lobbying power of finance. Most of these specific financial agreements were signed without the knowledge of either the political groupings or the public at large in the countries concerned.

For instance, in the U.S., congressional process is required to vet international economic agreements, but this did not occur in the case of the Understanding on Financial Services.

Obviously, these GATS rules are now completely out of date and constitute a major constraint on necessary reforms in the financial sector. There are two possibilities in such a context. The first is that such rules get more or less ignored and become a bit like the ”Maastricht rules” for European economic integration, which are more honoured in the breach, especially by large countries.

The second is that the GATS itself – and specifically these provisions – gets renegotiated, eliminating all the provisions that demand and insist on comprehensive financial deregulation even when it is irrational and socially undesirable.

In either case, change is going to require political reconfiguration of the power of finance. At present, it looks like this will happen only with a more extensive crisis – which unfortunately is only too likely to occur.
A loner’s classic

The reclusive J.D. Salinger (1919-2010) has the voice of rebellious youth as the hero of his celebrated novel ‘The Catcher in the Rye’. BY MARK KRUPNICK

J.D. SALINGER, who died aged 91, was the reclusive author of The Catcher in the Rye (1951), one of the most beloved novels in the English language since the Second World War. Millions of American high school and college students identified passionately with the novel’s 16-year-old hero, Holden Caulfield, whose blend of innocence and disillusion makes him appear a version of Mark Twain’s Huckleberry Finn, translated from the American heartland to New York City, and from the simplicity of the 1840s to the anxieties of the modern era.

Yet, although Holden is an American, his appeal transcended national borders. The Catcher in the Rye has been translated into 30 languages, and sold more than 65 million copies worldwide. In his biography of Salinger, the British poet and critic Ian Hamilton wrote of his shock of recognition when, at the age of 17, he read Holden’s story. Other non-American male critics have expressed a similar sense of wonder about how Salinger could have so perfectly captured their sense of their own adolescent selves.

Jerome David Salinger was born in New York City. After elementary grades at state schools, his parents sent him to McBurney, a private school in the city, for secondary education. At best an indifferent student, he was expelled from McBurney after two years for failing to apply himself. At 16, he was dispatched to Valley Forge military academy, Pennsylvania, graduating two years later.

He then returned home. In 1932, his parents had moved to an apartment on Park Avenue, in the heart of Wasp gentility. Salinger’s father, Sol, made his living as an importer of luxury foodstuffs from Europe. His mother, Marie Jillich, is described by biographers as deriving from Scots-Irish stock, and is reported to have changed her name to Miriam because of pressure from Sol’s Jewish family. The secret of her background was so closely guarded that it was only after Salinger’s bar mitzvah at 14 that he learned that his mother was not Jewish.

After Valley Forge, Salinger enrolled in New York University but lasted only a year. At this point, his father gave the young man money so that he could spend time in Europe improving his language skills and learning about food imports. Salinger stayed abroad for five months, mainly in Vienna.

THE WAR HAD a traumatic effect on Salinger, and in his later fiction he would emphasise the emotional precariousness of his youthful heroes.
During that time he showed as little interest in Polish hams and fancy cheeses as he had in his schooling. And from letters of his that have since been uncovered, it is apparent that he was taking little notice of the political events that were about to convulse central Europe. Indeed, he may have left Vienna only a month or so before the German annexation of Austria in March 1938.

Back from Europe, Salinger enrolled at Ursinus College, a Pennsylvania institution that disseminated the doctrines of the German Reformed Church. After one unhappy term, he returned to New York and completed his misadventures in higher education with a night course at Columbia University. This turned out to be especially important for him, because it was taught by Whit Burnett, the highly regarded editor of Story, a magazine that specialised in publishing short fiction. Burnett also had a solid record for discovering new talent.

Encouraged by Burnett, Salinger began publishing his work in high-paying “slick” magazines such as Collier’s and the Saturday Evening Post, as well as in Story. By the time he was 21, he had already had a story accepted by Esquire and had come close to it at The New Yorker, where he most wanted to appear.

**HOLDEN CAULFIELD**

Just as Salinger’s career was taking off, the Japanese attacked Pearl Harbour and he was drafted into the Army. From 1942 to early 1944, he had an easy war, moving around army bases in the United States, but in March 1944 he was shipped out to Tiverton, Devon, where his unit was to prepare for the Normandy invasion. During the time between his arrival in Britain and D-day, Salinger completed six chapters of a novel about a character very much like his own teenage self. Even before 1944, he had decided on a name for his hero: Holden Caulfield. Later he explained, half-humorously, that he chose it because it brought together two Hollywood film stars, William Holden and Joan Caulfield. When *The Catcher in the Rye* appeared, it marked the culmination of a decade of living with and thinking about his creation.

Salinger was a counter-intelligence officer in the 4th Infantry Division, but he did not escape the carnage of the liberation of Europe. He saw considerable combat, including the Battle of the Bulge. During much of this time he continued to write. To judge by letters and short stories he wrote at about this time, the experience of war had a traumatic effect on him. Salinger had already shown his emotional vulnerability as an unhappy schoolboy, and in his later fiction he would emphasise the emotional precariousness of his youthful heroes. Two early Salinger stories, later reprinted in his collection *Nine Stories* (1953), offer glimpses of men suffering from what we nowadays call post-traumatic stress disorder. *A Perfect Day for Banana Fish* and *For Esme - with Love and Squalor* depict soldiers who have survived but with badly frayed nerves.

Salinger himself suffered a nervous breakdown and was briefly hospitalised when the war ended. In late 1945, he met a German woman named Sylvia, who may have been some kind of doctor, possibly a psychologist. They married a few weeks after meeting. In her memoir *Dream Catcher* (2000), the novelist’s daughter from his second marriage, Margaret Salinger, wrote that Sylvia was a low-level official in the Nazi party whom her father, working in counter-intelligence, met when he was sent to arrest her. Later, Salinger’s second wife, Claire, said that her husband had told her that Sylvia was a passionate, evil woman who hated Jews with the same venom that he felt towards Nazis. This intense, physical relationship burned itself out after eight months.

In 1946, Salinger returned to New York. Still emotionally shaken, he tried to resume life as a writer. In 1948, he had three stories accepted by *The New Yorker* and never submitted his work to the “slicks” again after that, his name becoming indissolubly linked with that of *The New Yorker*. He also set about turning his Holden Caulfield sketches into a work that would be longer and more ambitious than anything he had attempted before.

When *The Catcher in the Rye* first appeared, most reviewers were positive, but several attacked the book as subversive and immoral. One reviewer, who found Holden “vulgar” and “repellent”, feared that “a book like this, given wide circulation, may multiply his kind”. Indeed, many protectors of public morals contrived to get it banned from schools and libraries. More recent criticism has emphasised Holden’s inchoate desire for something prouder and truer than the cruelty and “phoniness” of the unredeemed world. The notion that *The Catcher in the Rye* is an immoral and irreverent work has largely given way to the antithetical view – that Salinger’s chief impulse is specifically religious. Sympathetic readers have actually regarded Holden as a saint, albeit of an unconventional kind, and have seen the plot as an exercise in the spiritual picaresque.

After *The Catcher in the Rye*, Salinger’s rate of production slowed considerably. He was now reading Zen and Mahayana Buddhism, Taoism, and Advaita Vedanta, and putting in long hours of meditation. He took up a macrobiotic diet and had acupuncture and homeopathy. *Nine Stories* appeared in 1953, but many of them had originally come out in the 1940s.

Then, in 1955, Salinger published *Franny in The New Yorker*. It was the first of his stories in which the religious impulse is explicit. Although, at 40 pages, *Franny* was much slimmer than *The Catcher in the Rye*, it became as much of a young people’s classic in its moment, and all the more the object of a cult because it was hard to get hold of until it was reprinted in 1961, in *Franny and Zooey*. That volume quickly shot to the top of *The New York Times* bestseller list. Its publication marked the highpoint of Salinger’s popularity, creating far more excitement than the publication of *The Catcher in the Rye* had 10 years earlier. Salinger’s image appeared on the cover of Time maga-
zine and the merit of his fiction was widely debated. The period from 1955 to 1963 in America was the time of rebellious youth as a political loner, and Salinger was the laureate of this diversely unhappy cohort.

His three major subsequent stories – all novellas, and longer and more diffuse than the tightly crafted pieces in Nine Stories – were Raise High the Roof Beam, Carpenters (1955), Zooey (1957) and Seymour: An Introduction (1959). All are about members of the Glass family; the parents, who were once stars of vaudeville, and their seven children, all of them precocious to a fault. Franny and Zooey and Raise High the Roof Beam, Carpenters found an appreciative audience among Salinger’s younger readers. But by 1960 his work had come to the attention of influential critics and academics, and for the most part they were not as appreciative. Salinger, who had always been extremely sensitive of critical opinion, was badly wounded by attacks on his work by John Updike, Mary McCarthy and Frank Kermode.

In 1965, Salinger published Hapworth 16, 1924, a novella that took up 80 pages in The New Yorker. It was very negatively received, and his response was to quit writing or, as he claimed, to continue writing but to refuse to have anything to do with publishers or the commercial literary scene. On his 34th birthday he moved into a modest hilltop house Cornish, New Hampshire. It was far enough from New York City to make a point.

Salinger had turned to eastern religious meditation in a serious way and largely withdrawn from the world. From this point on, the great drama in his life and work consisted of his battle to frustrate journalists and would-be groupies, whose interest in his life had been whetted by what seemed to them – not without reason – the autobiographical element in his fiction.

Here was a writer who had a deep distrust of the world and of the flesh, but one who periodically became enmeshed in both. In 1955, when Salinger was 36, he met and married a 19-year-old Harvard undergraduate, Claire Douglas, daughter of the distinguished art critic Robert Langton Douglas. The eccentric eastern religious regime that he imposed on his household, and his exclusive concentration on his work, meant that the marriage was rocky from the start. Yet it was the longest relationship Salinger sustained, and it produced two children, Margaret, born in 1955, and Matthew, in 1960. In 1967, however, close to a nervous breakdown herself, Claire filed for divorce. She won the house in a settlement, but Salinger built a new one for himself only a mile away so he could continue to see the children.

Salinger entered into a series of relationships with very young women. One of these was Joyce Maynard, an 18-year-old Yale fresher who attracted attention in 1972 when her essay An Eighteen-Year-Old Looks Back on Life appeared in The New York Times. Salinger wrote Joyce Maynard a fan letter, a correspondence ensued, and in 1973 she left Yale to move in with the writer. Their relationship lasted almost a year. In 1998, in a memoir entitled At Home in the World, Joyce Maynard recalled the period as one in which she had been emotionally abused and finally cast off with indifference. Her intimate revelations certainly did not please Salinger, who regarded Joyce Maynard’s book as a betrayal.

But this was as nothing compared to its sequel the next year, when Joyce Maynard auctioned the letters Salinger had sent her during their relationship. In 1986, his lawyers had been able to prevent the publication of the original version of Hamilton’s biography when a court ruled that his quotation of excerpts from unpublished letters violated the author’s rights. But this time Joyce Maynard was the undisputed owner of the letters Salinger had sent her, and she was not proposing to publish them. In the event, the American inventor of a hugely profitable computer anti-virus software programme came forward and bought the letters – promptly making them over to Salinger as a gift.

In June last year, Salinger launched legal action against the author, publisher and distributor of a proposed “sequel” to The Catcher in the Rye. Yet his victories were often pyrrhic, attracting more publicity precisely because of his reclusiveness.

Salinger’s third wife, Colleen O’Neill, whom he married in the late 1980s, and his son, daughter and three grandsons survive him.

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Obituary

People’s historian

Howard Zinn’s (1922-2010) gift was the fervent belief that the “little rebellions” are not only necessary but they are what we live for. **By Vijay Prashad**

Zinn’s *People’s History* was suffused with rebellion. It was always about taking sides. The book, Chomsky pointed out, “changed the conscience of a whole generation.”

“If I want to be remembered for anything, it’s for introducing a different way of thinking about the world, about war, about human rights, about equality, for getting more and more people to think that way, and also for getting more people to realise that power, which rests so far in the hands of people with wealth and guns, ultimately rests on people themselves, and they can use it, and at certain points in history they have used it. What I want to be remembered as is somebody who gave people a feeling of hope and power that they didn’t have before.”

I began my political life in the United States in the 1980s. The United States’ wars in Central America were the focus of things, as was Reagan’s calculated assault on the organised working class. The confidence of the Right was palpable, and so too was the despair in the Left. It was in this context that a friend gave me a book that changed the way I saw America: Howard Zinn’s *A People’s History of the United States* (1980).

The book’s ambition was clear: to uncover the “countless small actions of unknown people”, the people who had submitted their lives (and bodies) to uphold the highest ideals of their time against entrenched power holders. Rebellions against tyranny and protests for justice formed the pageantry of Zinn’s American history, from the uprisings of enslaved Africans to the powerful vision of social justice of the Civil Rights movement. No longer an America given over only to its version of imperial power south of the Rio Grande, nor an America smothered by the greed of Wall Street to the detriment of Main Street. This was an America of ordinary people, whose extraordinary actions constrained the powerful even just a little bit. Now to the barricades, was the message, for without action there can be no hope of any social change.

For Zinn, his most famous book was already the third chapter in his long political career. When he returned from military service as a bombardier in the Second World War, Zinn went to graduate school, trained as a historian and took his first job at Atlanta’s Spelman College, historically a black women’s school. When Zinn and his wife Rosyln came to Atlanta in 1956, the Civil Rights movement was taking flight. Zinn’s honest wisdom and energetic courage was evident to his students. They brought him on as an adviser to the Student Nonviolent Coordinating Committee (SNCC), where he was joined by the other great stalwart among the elders, Ella Baker. Zinn went on the picket line against racism and helped desegregate the gallery of the Georgia State Legislature.

Spelman’s authorities faltered; they fired him over the summer. Zinn decamped to Boston University, where he wrote his first important book, an oral history of SNCC. “What I am attempting to do here,” he wrote in *SNCC: The New Abolitionists* (1964), “is to catch a glimpse of SNCC people in action and to suggest the quality of their contribution to American civilisation.” Zinn’s penchant for the small acts and small voices that are instrumental in making history begins at his beginning.

In Boston, Zinn opened the second chapter of his life, throwing himself into the burgeoning movement against the U.S. war on Vietnam. When SNCC leader Bob Moses criticised the U.S. government for sending troops to Vietnam but not defending civil rights workers in Mississippi, Zinn recalled, he got the first sense of the anti-war momentum. Boston University became a centre of the anti-war agitation, and Zinn moved effortlessly between the classroom and the street. Martin Luther King Jr threw in his lot with the anti-war movement, saying, in 1965, “the long night of war must be stopped”.

Zinn put together the arguments to justify King’s statement in *Vietnam: the Logic of Withdrawal* (1967; the text first appeared in the left-liberal journal *The Nation* in 1966-67). As Zinn’s friend Noam Chomsky put it about this book, “He was the first
HOWARD ZINN DIED in Santa Monica, California, on January 27, 2010.
person to say – loudly, publicly, very persuasively – that this simply has to stop; we should get out, period, no conditions; we have no right to be there; it’s an act of aggression; pull out.” Zinn’s book was a touchstone, but so too was his 1968 trip to Hanoi to bring back three U.S. Air Force pilots, and his work with Daniel Ellsberg and Chomsky in the publication of The Pentagon Papers.

The Civil Rights years and the anti-war years taught Zinn the value of civil disobedience. He later wrote a number of books on protest, such as Disobedience and Democracy: Nine Fallacies on Law and Order (1968), Justice in Everyday Life (1977) and A Power Governments Cannot Suppress (2006).

“The principle I am suggesting for civil disobedience,” he wrote, “is not that we must tolerate all disobedience to law, but that we refuse an absolute obedience to law. The ultimate test is not law, but justice.” This clarity of vision remained an inspiration through the Reagan years, into the years of globalization, the war on terror, the Iraq war and the Obama administration.

Zinn never lost his humour, his ability to find the phrase to challenge his friends and detractors alike to see the world for what it can become. Zinn liked to quote from Thomas Jefferson’s letter to Abigail Adams, written during Shays’ Rebellion in western Massachusetts (1786) – “The spirit of resistance to government is so valuable on certain occasions that I wish it to be always kept alive. It will often be exercised when wrong, but better so than to be exercised at all. I like a little rebellion now and then. It is like a storm in the atmosphere.”

Zinn’s book brought the insights of the new social historians of the 1960s into conversation with the radical historians of the 1930s (such as A.L. Morton, whose A People’s History of England, 1938, was a forerunner). Frederick Douglass, Sojourner Truth, Eugene V. Debs, Fannie Lou Hamer, Mohammed Ali and Big Bill Haywood spoke to us through Zinn’s text, brushing off what E.P. Thompson called “the enormous condescension of prosperity”. The book sold over two million copies. It continues to inspire.

Zinn died on the eve of Obama’s first State of the Union Address. It was my wish that the President would open his remarks with a tribute to the people’s historian. But he did not.

Zinn spoke of Obama a year ago, saying, “Obama has to be pulled by the people who elected him, by the people who are enthusiastic about him. We’re the ones who have to tell him, ‘No, you’re on the wrong course with this militaristic idea of using force to accomplish things in the world. We won’t accomplish anything that way, and we’ll remain a hated country in the world.’”

A few days before he died, Zinn returned to the theme of Obama, and echoed the lessons of his own life and his People’s History, “I think people are dazzled by Obama’s rhetoric, and that people ought to begin to understand that Obama is going to be a mediocre President – which means, in our time, a dangerous President – unless there is some national movement to push him in a better direction.”

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No clearer view could have come at this difficult time, as the full weight of America’s progressive voices are smothered. Zinn’s gift was those voices, and the fervent belief that the “little rebellions” are not only necessary but they are what we live for.
Himalayan blunder

The IPCC should create a special commission to cross-check all references in its report if errors such as the one on Himalayan glaciers are not to recur.

ARRIVING a minuscule proportion, all those who have even skimmed through parts of the 2007 Fourth Assessment Report (FAR) of the Intergovernmental Panel on Climate Change (IPCC) – such as the Synthesis Report for policymakers, the detailed reports of the three working groups or summaries for the media, and so on – will not fail to be impressed by its overwhelmingly sober and cautious tone, and tendency to understate some aspects of the climate crisis, and the careful differentiation it makes between varying emission scenarios and degrees of likelihood of global warming exceeding a certain level.

These degrees are defined with mathematical precision: “likely” means a probability of over 66 per cent; “very likely” over 90 per cent; “virtually certain” 99 per cent-plus; and “very unlikely” under 10 per cent. The 2°C Celsius limit for global warming beyond which the IPCC says climate change could become irreversible or dangerous is also probabilistically linked to certain atmospheric greenhouse gas concentrations.

This is in keeping with the probabilistic notion of scientific truth, as opposed to absolute certainty. Good, responsible science respects and welcomes scepticism and is always aware of its limitations, including the possibility that its conclusions may be falsified and that its methods are amenable to refinement. The 4,000 scientists – drawn from scores of countries – who wrote the FAR were tasked to rely on solidly established science, cross-check each major inference or forecast, and back up each number or statement with citations from standard, professionally peer-reviewed science journals.

So it is indeed disturbing that some inaccuracies and exaggerations crept into the working groups’ reports, which form the basis of the expert assessments cited in climate change negotiations under the United Nations Framework Convention on Climate Change (UNFCCC). The lobby that denies climate change has used these to launch a full-scale assault on the IPCC, questioning its integrity and demanding the resignation of its chairman R.K. Pachauri, who also heads The Energy and Resources Institute (TERI). The lobby – in which 770 companies have come together to hire over 2,300 agents in Washington alone, in addition to hundreds of supporters in polluting corporations, powerful think-tanks and the media – is targeting climate science itself. Some British newspapers have also accused Pachauri of abusing his position to secure favours for himself and TERI.

It is vital to make a clear demarcation between the individual-centred accusations and the claimed flaws in the FAR. The latter include a statement in the Working Group-2 report that Himalayan glaciers ‘are receding faster than in any other part of the world, and if the present rate continues, the likelihood of them disappearing by the year 2035…is very high if the earth keeps warming at the current rate. Its total area will likely shrink from the present 500,000 to 100,000 sq km by…2035.’

ACCUSATIONS

There are also accusations that the FAR linked recent natural disasters, including hurricanes, floods and heat waves, to long-term climate processes, on the basis of an as-yet-unpublished paper, which has since been revised. Another charge is that the IPCC’s assessment of reduced ice in the Andes and the Alps was based not on a peer-reviewed journal, but on anecdotal accounts in a magazine for mountaineers, and on a Swiss postgraduate student’s dissertation. Yet another accusation relates to rapid forest loss in the Amazon.

Earlier, the deniers’ lobby hacked into the personal e-mails of researchers at Britain’s East Anglia University, and claimed that they deliberately manipulated or suppressed data to suit predetermined conclusions about accelerated climate change.

Of all these charges, the first is the most important and best-document-
ed, and what prompted the IPCC to express “regret”. The other accusations appear weakly substantiated or are based on certain interpretations (for instance, the interpretation of the colloquial term “fix” in the hacked e-mails, which may mean accommodating observed differences, not manipulating data). The statement about the glaciers disappearing by 2035 was not based on a reference in a peer-reviewed journal, but on a report by the advocacy group World Wide Fund for Nature (WWF). This in turn was based on a 1999 report in the popular British science magazine New Scientist, which quoted Syed Iqbal Hasnain, an Indian glaciologist, then working with the Jawaharlal Nehru University, New Delhi, and now with TERI.

Hasnain, however, denies having told the New Scientist reporter that the glaciers are likely to vanish by a specific year; he says he only said that they are receding rapidly. Matters are complicated by the fact that Hasnain did not contradict the report until recently, and cited it without quoting himself in some of his recent presentations. He says that predicting a year by which the glaciers will disappear is “speculation”. Hasnain, who has published some 30 scientific papers, has been chairman of the Working Group on Himalayan Glaciology of the International Commission for Snow and Ice (ICSI). But the ICSI’s report, published in 1999, said nothing about Himalayan glaciers.

It turns out that the source of the “speculation” was a 1996 report by Russian scientist V.M. Kotlyakov, which said Himalayan glaciers are likely to disappear by 2350. The figure was transposed as 2035. The IPCC got it wrong by 300 years and did not bother to check its source. It also allowed another major error to creep in: a gross inflation of the area of the Himalayan glaciers – 500,000 sq km, 16 times higher than the normally accepted figure.

These inaccuracies are egregious and unbecoming of good science, which is based on robust facts and observations. They must not be minimised, as Pachauri tried to do when he claimed on January 23 that the IPCC’s retraction has “strengthened” its credibility. This claim is patently untenable. It also turns out that Pachauri was wrong in telling The Times (London) on January 22: “I became aware of [the 2035 error] when it was reported in the media about ten days ago. Before that, it was really not made known...” But e-mails on this issue have been circulating since early December.

**THE KHUMBU GLACIER** in the Everest-Khumbu region is one of the longest in the world. As of now, scientists do not know enough about Himalayan glaciers’ behaviour to say how rapidly they will retreat or disappear.

**MELTING RAPIDLY**

However, none of this detracts from the soundness of the assessment that the Himalayan glaciers are melting rapidly. This assessment is not based on a few studies but on numerous independent lines of evidence established by scores of scientists in India, China, Nepal, the United States, Germany, and elsewhere. A single slip of this kind cannot demolish a whole body of scientific knowledge that has emerged after a quarter century of serious international effort at understanding the impact of human activity on the climate system.

Yet, scientists do not know nearly enough about the Himalayan glaciers’ behaviour to say how rapidly they will retreat or disappear. The Himalayas are not as well-studied or -photographed as, say, the Alps. Scientists use various methods to study glacier behaviour – visual imagery, remote-sensing, measurement of glacier length, snout positions and discharge volumes, and changes in mass. Mass balance, measured by new in situ techniques, is the most reliable indicator. But very few Himalayan sites have been studied for mass balance loss. So scientists cannot predict the precise behaviour of even some of the 12,000-15,000 glaciers of the Himalayas. Their disappearance by 2035, says an international group of glaciologists, would require “a 25-fold greater loss rate from 1999 to 2035 than that estimated for 1960 to 1999”.

**THE KHUMBU GLACIER** in the Everest-Khumbu region is one of the longest in the world. As of now, scientists do not know enough about Himalayan glaciers’ behaviour to say how rapidly they will retreat or disappear.
However, there is compelling evidence that glaciers in the entire Greater Himalayas, stretching from the Hindu Kush to the Central and Eastern Himalayas to the Tibetan Plateau, barring the Karakoram range, are shrinking at historically high rates. Studies published in peer-reviewed journals document a significant loss of glacier area, mass balance and length since the 1960s. For instance, a study of 1,317 glaciers in 11 different places documents a 16 per cent area loss since 1962.

Another study, which looks at important glaciers such as Pindari, Gangotri, Parbat, Dokriani, Sara Umanga, Chandra and Bhaga, finds retraction by 5 to 49 metres since observations began. The average annual loss of area between 1962 and 2001-02 was 0.39 per cent. Similarly, mass balance studies show a high loss of volume, decreasing depth, fragmentation and accelerating recession. Report after annual report of the World Glacier Monitoring Service confirm this.

Glaciers are shrinking the world over. As they shrink, black rock is exposed. This reflects back only 5 per cent of sunlight, compared to 80 per cent for snow/ice. This accelerates melting, in turn leading to greater warming. This iterative process is called “positive feedback” and is similar to what is happening to the polar ice sheets.

There is one significant difference, however, as regards the Himalayas. That is, the effect of black carbon, or soot, generated from the incomplete combustion of diesel, coal and biomass. Black carbon, according to one estimate, accounts for one-third to one-half of the Himalayan glacier recession. In South Asia, cooking stoves that burn fuelwood, twigs, vegetable residues and cowdung are a major black carbon source. Respiratory problems occur among women who use primitive chulhas in unventilated kitchens. Such indoor pollution is estimated to kill 400,000 annually.

Critically relevant and material here are the likely consequences of the melting of the Himalayan glaciers. The Himalayas are rightly called the world’s Third Pole and Asia’s Water Tower. They feed seven great river systems, including the Ganga, Indus, Brahmaputra, Yangtze and Mekong, on which some 1.3 billion people depend. Rapid melting of glaciers will drastically reduce water availability, and threaten millions of livelihoods, especially that of the poor.

ALTERNATIVES

We must act urgently to prevent the retreat of the Himalayan glaciers. One site of action is cooking stoves. Four-fifths of India’s rural households are compelled to use biomass-based cooking stoves with a thermal efficiency of 1-2 per cent because they are poor and have no access to clean fuel such as liquefied petroleum gas (LPG). There is an imperative need to help them shift to efficient stoves that use LPG — by redeploying the existing subsidy on kerosene (Rs.30,000 crore). Simultaneously, kerosene, largely burnt as lighting fuel, must be replaced by solar home-lighting, which is cheaper than extending the electricity grid to India’s one-lakh-plus unelectrified villages (of a total of 6 lakh villages).

The IPCC failed to apply well-established procedures and its own standards, including “thorough review of the quality and validity of each source” cited in its report. It must rectify the error by revisiting the Himalayan glacier issue. But it would best restore its credibility by appointing a special commission to cross-check and verify all the references in its reports, which identifies citations not based on robust facts. This will have a salutary impact on the UNFCCC climate negotiations.

As for Pachauri, he faces several conflict-of-interest allegations. TERI allegedly received Rs.56 lakh from India’s Ministry for Environment and Forests (MoEF) for conducting IPCC meetings between 2004 and 2006. TERI has also reportedly received tens of thousands of dollars from corporations such as the Toyota Motor Company or businesses involved in emissions trading (Deutsche Bank). Pachauri also holds posts in interested parties such as Carbon Exchange and the Pegasus Fund. Pachauri does not hide his corporate connections. His just-published novel was released in Mumbai by Mukesh Ambani in the presence of other industrialists and bankers.

This does not necessarily suggest that TERI’s work or the IPCC’s integrity was compromised. But it warrants full disclosure of the details of the grants and fees TERI received from different sources — in the interest of transparency and the spirit of science, which the IPCC is meant to uphold. To demand this is not to allege, as Union Minister of State for Environment Jairam Ramesh did, that the IPCC is “alarmist” and that his own position that the Himalayan glaciers present a “mixed” picture — both retreat and advance — stands vindicated. Even less does it justify the paranoid charge that the IPCC or Western powers indulged in “India-bashing” to extract major concessions from it at the climate talks.

The official Indian position on Himalayan glaciers has oscillated between outright denial and agnosticism. This is reflected in geologist V.K. Raina’s discussion paper posted on the website of the MoEF, which is neither peer-reviewed nor well-referenced and credible. Climate change denial is irrational and dangerous. Indian leaders are right to deplore it in the West. But they should stop practising their own form of semi-denial on the Himalayan issue and move quickly towards remedial action on black carbon, and on mitigation of and adaptation to changes in the Himalayan ecosystem. It is in too precarious a state to be ignored.
Politics

Shifting sands

The BSP, which has been losing its Brahmin support base to the Congress, would welcome whatever upper-caste support it can get in order to add to its Dalit vote base. Amar Singh and his newly launched Lok Manch could come in handy.

POLITICS in Uttar Pradesh is poised for a few interesting twists and turns following the expulsion of senior leader Amar Singh and Lok Sabha member Jaya Prada from the Samajwadi Party (S.P.) on February 2. Several political observers are of the view that the former general secretary's ouster could even lead to a political realignment on the basis of caste, which has been central to the State's politics for many decades. It may be too early to predict what shape this process of realignment would take, but certain definitive characteristics have started emerging as is evident from the developments in the S.P. and the activities in the Congress and in the ruling Bahujan Samaj Party. The former has been devising plans to consolidate the gains it made in the State in the 2009 Lok Sabha elections.

The most notable manifestation of such political development is the resolute attempt by the S.P. to recapture its traditional socialist credentials. The mass agitation programmes organised by the party in the days immediately before and after Amar Singh's expulsion reflected this. They also evoked a positive response from the party's rank and file. Mohan Singh, the newly appointed spokesperson in place of Amar Singh, sought to reaffirm this "return to the roots" when he accused Amar Singh of having sought to inject "capitalist designs" into the party. "It is unfortunate that we realised these designs only after 14 years," he said.

The process of this so-called "realisation" had hastened in the past four months, according to many S.P. insiders and observers. It became apparent with the consistent public jousting between Amar Singh and Ram Gopal Yadav, S.P. president Mulayam Singh Yadav's brother, on a number of issues regarding the party's political direction and organisation. Amar Singh started it by criticising the S.P.'s performance in the November 2009 Firozabad Lok Sabha byelection, where it suffered a humiliating defeat. The byelection was necessitated by the resignation of the seat by Mulayam Singh's son and the party's State unit president Akhilesh Yadav, after having been elected from two seats in the Lok Sabha elections. Akhilesh's wife Dimple Yadav contested from here but was defeated by the Congress candidate Raj Babbar. Amar Singh publicly questioned the party's strategy in the election. Ram Gopal Yadav saw this as indiscipline. This led to the first round of jousting between the two.

By early January, in a nuanced move, Amar Singh began targeting the party chief himself. He sent in his resignation from all party posts. Though the reason stated in the resignation letter was his fragile health following a kidney transplant, it was evident that the jousting with Ram Gopal Yadav and the perception that Mulayam Singh was protecting his brother were key factors that triggered the move. The message to Mulayam Singh was clear: shift the umbrella of protection from Ram Gopal Yadav.

Mulayam Singh initially refused to accept the resignation, obviously giving a signal that he was ready to act as peacemaker. But neither Amar Singh nor Ram Gopal Yadav was ready to reach a compromise. In the meantime, Ram Gopal Yadav's position evoked great support from within the party's organisational structure, and ultimately the S.P. chief accepted Amar Singh's resignation on January 17, eleven days after it was sent.

Once this happened, the gloves were off. Amar Singh said that it was not merely his health problems but also the criminalisation in the S.P. that compelled him to seek remission from official responsibilities. He went on to add that Mulayam Singh had failed to check this criminalisation, and in a sense was even encouraging the rise of such interests in the politics of Uttar Pradesh. Though Mulayam Singh
chose not to respond to this, other leaders in the S.P., including former State Minister Ambika Choudhary, retaliated by saying that Amar Singh was discovering new-found criminalisation in the S.P. just to make himself seen by the Congress and the BSP as amiable.

Ambika Choudhary’s contention was that Amar Singh was doing this in order to wriggle out of the money laundering and corruption case filed against him in October 2008 at Kanpur. “Amar Singh has always used political activity as an instrument to protect and promote the business and other commercial interests of himself and his friends. In the new political circumstances, he requires support from either the Congress, the ruling party at the Centre, or from the BSP, the ruling party in Uttar Pradesh. While the former could force investigative agencies to go slow, the latter can even withdraw the first information report [FIR] filed against him in Kanpur. The S.P. should not fall prey to such gamesmanship,” Ambika Choudhary told Frontline a couple of days before Amar Singh’s expulsion from the party.

Whatever be the truth of this, it is no secret in S.P. circles that Mulayam Singh and Amar Singh have been holding divergent views on the party’s relationship with the Congress after the 2009 Lok Sabha elections. While the S.P. is indeed technically supporting the Manmohan Singh-led United Progressive Alliance (UPA) government at the Centre, Mulayam Singh apparently wants to have a political equation that asserts the party’s identity as a constructive opposition. This means that it would go in for greater cooperation, both within Parliament and outside, with the non-Congress, non-Bharatiya Janata Party (BJP) political forces, including the Left parties.

Amar Singh apparently was of the view that there should be greater cooperation with the Congress at the Centre so that it ultimately led to an alliance in Uttar Pradesh. Mulayam Singh’s opinion on this has been that any alliance with the Congress in the State needs to be worked out from a position of strength and cannot be done in haste. It was the cumulative effect of all these that finally led to the rupture between Mulayam Singh and Amar Singh.

There is little doubt that Amar Singh’s absence will be felt in S.P. forums. His was a dominating presence on party platforms for nearly a decade and a half. As a well-connected businessman-industrialist, he not only helped raise considerable funds for the party but also attracted many personalities from the film industry and the corporate world to the party. They included actors Jaya Bachchan, Jaya Prada and Sanjay Dutt and the industrial magnate Anil Ambani.
His was a regular presence on national television on account of his eloquence and somewhat contentious style of presentation. This undoubtedly helped the S.P. to be seen as a national party, the views of which merited attention.

In the process, however, he alienated many founder-leaders of the S.P. from the party. They included Mohammed Azam Khan and Beni Prasad Verma. While there are indications that Azam Khan would make a comeback to the S.P. following Amar Singh’s ouster, Beni Prasad Verma is safely ensconced in the Congress as a Lok Sabha member.

Amar Singh’s political forays in the past 14 years were made on the strength of the S.P.’s vast support base in Uttar Pradesh, which was built essentially on the Other Backward Classes (OBC) credentials of Mulayam Singh. It remains to be seen how both the S.P. and Amar Singh will take forward their respective political campaigns in the future.

Amar Singh’s absence on the national scene, particularly in the media, may divest the S.P. of an articulate proponent of the party’s views, but new spokespersons like Mohan Singh and Ram Gopal Yadav also have their value on account of their steady and less contentious approach to political presentations and media interactions. On the other hand, the expulsion has taken away from Amar Singh the mass base of the S.P.

In the past decade and a half, Amar Singh has sought to present himself as a definitive leader of the upper-caste Thakur community in Uttar Pradesh. This has had some limited success, particularly in the eastern parts of the State. The absence of towering Thakur leaders such as former Prime Ministers Vishwanath Pratap Singh and Chandra Shekhar in active politics in the past decade also helped him in many ways. Yet, not many observers are convinced that Amar Singh can emerge as a Thakur leader with a State-wide appeal.

The political affiliations that Amar Singh may build up in the future too are at present in the realm of conjecture. While it is clear that his first preference is the Congress, indications are that he has not met with a good response. The majority in the Congress leadership, both at the Centre and in the State, apparently feels that the Thakur leader could be more of a liability than an asset, especially in the background of his “unique political and individual pressure tactics”. Moreover, the party believes that it can revive on its own and that the problems in the S.P. will only facilitate the process.

For the record, Amar Singh has announced the formation of the Lok Manch (People’s Platform), which he says is an apolitical organisation to uplift the oppressed sections of society, including Most Backward Castes (MBCs) and Dalits. He has also tied up with nascent organisations such as the Peace Party of India, which contested the 2009 Lok Sabha elections on a relatively extremist platform on issues relating to the Muslim community. All these moves can possibly take only one political direction: an understanding between the Lok Manch and the BSP.

The ruling party of Uttar Pradesh, which won the last Lok Sabha elections on the slogan of Dalit-Brahmin bhaichara (Dalit-Brahmin brotherhood), has been losing its upper-caste Brahmin support base to the Congress. It would hence welcome whatever upper-caste support it can get in order to add to its core Dalit vote base. Amar Singh and the Lok Manch could come in handy here, and if that happens, it could lead to a new political alignment in the caste-ridden politics of Uttar Pradesh.

In the meantime, the S.P. is all set to rediscover its militant socialist path, both in terms of politics and in terms of its organisational functioning. Clearly, interesting times are ahead in the country’s most populous State.
Dangers within

Justice J.S. Verma’s recent lecture was another reminder of the many dangers that the judiciary faces and the need for introspection and house-cleaning.

The process of appointment of judges of the Supreme Court and the High Courts is an integrated ‘participatory consultative process’ for selecting the best and most suitable persons available for appointment... There may be a certain area, relating to suitability of the candidate, such as his antecedents and personal character, which, at times, consultees, other than the Chief Justice of India, may be in a better position to know. In that area, the opinion of the other consultees is entitled to due weight, and permits non-appointment of the candidate recommended by the Chief Justice of India...

If the non-appointment in a rare case, on this ground, turns out to be a mistake, that mistake in the ultimate public interest is less harmful than a wrong appointment... non-appointment for reasons of doubtful antecedents relating to personal character and conduct, would also be permissible.

— Supreme Court of India in the Second Judges Case (AIR 1994 SC 268)

It was 16 years ago that the Supreme Court of India gave this ruling in what is still regarded a landmark pronouncement. This was meant essentially to send out a strong signal to both the executive and judiciary that there cannot be and should not be any dilution of the standards set for judicial appointments.

The unmistakable message was that there should be neither political nor personal prejudices in the matter of choosing judges for the highest court of the land. By the same logic, the inference was that happenings impinging the image of the judiciary could not be swept under the carpet as

they rightly fell within the public domain.

Ironically, until a few decades ago, it was almost taboo to discuss the judiciary in critical terms, either for its out-of-the-box rulings or for some apparently dubious decisions. Sedate and non-controversial comments were therefore the order of the day. Even the odd one who dared to take a dig at the hallowed institution couched his or her words in utterly ambivalent and defensive language so that he or she could still get away if hauled up by the lordships for contempt.

Those were the days when the contempt law was abused, and some judges went to utterly ridiculous limits. I remember one judge holding court on a railway platform to indict a station master for contempt, all for not providing a berth to a judge on a packed train. We have come a long way since those eminently forgettable days. Now one can comment fearlessly on both judges and judgments, as long as it is based on provable facts and amounts to reasonable criticism in public interest. The rule of prudence, however, has always been: you can criticise a judgment on its merits or shortcomings, but never question the motive of a judge in arriving at his or her conclusions. Also, when it comes to assailing the character of a judge, truth alone may not always be justification enough for levelling allegations.

Although judicial rulings on this subject are somewhat divided, I now see a lot of bold, meaningful and generally responsible writing that is extremely critical of the judiciary but which is considered appropriate and necessary to promote and preserve high standards of probity. Such criticism is also considered to be in tune with the widely shared perception that transparency is the hallmark of all modern public bodies. The judiciary is no longer the holy cow that it used to be and is open to clinical analysis.

In this context, the recent ruling of the Delhi High Court that the Right to Information Act was as much applicable to the Supreme Court as it was to the lower judiciary has been hailed by many. The Supreme Court is scheduled to take up this High Court ruling, in what is expected to be a full Bench sitting. Its outcome could form a watershed in the history of the Indian judiciary. It is on that basis alone that international evaluation of our judiciary could well proceed in the years to come.

The immediate provocation for my writing on this contentious subject of judicial standards and accountability and their corollary, that is, judicial independence, is a brilliant and most
Column

The judiciary is no longer the holy cow, it is now open to clinical analysis.

A convincing talk that was delivered recently in Chennai by Justice J.S. Verma, former Chief Justice of India and Chairman of the National Human Rights Commission (NHRC).

TheGovind Swaminathan Foundation, which organised the lecture, conferred on Justice Verma an award to recognise his contribution to legal ethics in the country. (Govind Swaminathan, an eminent barrister in the 1960s and 1970s, rose to be the Advocate-General of the State. An affable gentleman, he left a deep impression on the Madras Bar for his outstanding advocacy and faith in legal rectitude.)

In the view of a majority who were present at the Madras High Court that evening, none better than Justice Verma could have been chosen for the honour. His observations, in the Second Judges Case and the Hawala case, in the Supreme Court and directives to the executive both at the Centre and in States, when he was chairing the NHRC, speak for themselves. His clarity and fearlessness are regarded as something worthy of emulation by all those who aspire to climb the heights of excellence in the judiciary and the Bar.

Justice Verma’s lecture was forthright and free of any jargon that could obfuscate the main theme, that is, the judiciary presently faced many dangers to its credibility, and it was required to do a lot of introspection and house-cleaning for clearing doubts arising from a few recent unsavoury incidents. Justice Verma obviously had the Justice Nirmal Yadav and Justice P.D. Dinakaran controversies in mind. “I am troubled” was the refrain that one heard right through his commentary on the judiciary. Coming as it did from a man of Justice Verma’s stature and reputation, we can hardly ignore the warning.

Established procedures for both judicial appointments and inquiries into alleged misconduct by judges received major attention from Justice Verma. Notwithstanding some solid processes that have come into being, the popular impression was that these are flawed and require continual fine-tuning. He sought to clarify misconceptions that after the Second Judges Case, the executive did not have any role at all in the matter of appointments. It was true that the veto power given to the executive in the First Judges Case (1982) was taken away by the Second Judges Case (1994). But a reading of the latter judgment would highlight the fact that the process of appointment was ‘participatory’, one in which the executive was also required to bring in its inputs, especially in the matter of ensuring that the appointee had no adverse character and antecedents.

In Justice Verma’s view, the current problem is not one which arises from the enormous authority given to the Supreme Court collegium by the Second Judges ruling. It is rather from the application of that judgment and dissemination of the wrong impression that once the collegium makes its recommendation, it was absolutely binding on the executive, even if the collegium’s recommendation was not unanimous.

Justice Verma went on to say: “...the opinion of the executive is weightier in the area of antecedents and personal character and conduct of the candidate; the power of non-appointment on this ground is expressly with the executive, notwithstanding the recommendation of the CJI; and that doubtful antecedents etc., are alone sufficient for non-appointment by the executive. The decision also holds that the opinion of the judicial collegium, if not unanimous, does not bind the executive to make the appointment.”

Justice Verma could not have been more lucid on a subject that generates a controversy every other day. This assumes importance especially in the context of some jurists of immeasurable integrity questioning the quality of appointments made after the Second Judges Case. The media would do well to keep in mind this interpretation by a judge who was part of the Bench that delivered the judgment before assailing the executive each time a collegium recommendation is held up either in the Ministry of Law or in the Rashtrapati Bhavan.

Justice Verma did not pull any punches also while commenting on matters related to misconduct by judges and investigations thereof. He recalled how he had been pleading for years, especially after the K. Veerasami case, that self-regulation by the judiciary was preferable to any external probe. He was for a clear-cut legislation on the subject, which left little scope for the executive to misuse the opportunity provided by misconduct of some judges and drive the judiciary to a tight corner.

Justice Verma told the audience that the framework for such a legislation should have come from the judiciary, instead of the executive, and that too years ago. He feared that the former’s failure had allowed the initiative to go into the hands of the executive. In effect, what the Constitution had denied in terms of authority over the judiciary had now been obtained by the executive by the sheer default of the former.

Justice Verma spoke with passion on a subject that may never lose its relevance. He spoke also with anguish that recent happenings had eroded the credibility of an arm of the state, whose crucial role had a definite bearing on the stability of our democracy. There may be a few, just a few, in the judiciary who could advocate ignoring Justice Verma. That is an easy option. In the long run, however, such negativism could prove fatal to the cause of democracy and human rights. Viewed from this perspective, everyone in the world of justice needs to study Justice Verma’s speech and draw appropriate lessons.

110 FRONTLINE
REPORTS about the proceedings on two different petitions before the Supreme Court have made the future of deemed-to-be-universities in the country appear increasingly uncertain.

In one case, Viplav Sharma vs Union of India, initiated as a public interest litigation in 2006, the Supreme Court on January 25 accepted the plea of 44 deemed-to-be-universities to restrain the Central government from derecognising them on the basis of the report of the Professor P.M. Tandon Committee, set up to review their functioning, until the court heard them.

A Bench comprising Justices Dalveer Bhandari and A.K. Patnaik directed the affected universities to file their responses before March 8, the next date of hearing.

Noting that the issue involved a vital public interest affecting students, the Bench asked the government to place before it the reports of the Tandon Committee, set up to review their functioning, until the court heard them.

In another case, the Supreme Court on January 29 issued notice to the Centre and the University Grants Commission (UGC) on a writ petition requesting the court to declare illegal Section 3 of the UGC Act, 1956, which enables the executive to grant deemed university status to an educational institution. In his petition, consumer activist Jitendra Narayan Singh said Section 3 of the Act conferred wide and unguided power on the executive to recognise an institution as a deemed university and such action resulted in the commercialisation of the system of granting degrees.

In recent years, the power had been exercised by the executive authority arbitrarily to confer university status on institutions that “have no standards to be recognised as universities”. These institutions in turn indulge in conferring degrees for profit, he told the Bench comprising Chief Justice K.G. Balakrishnan and Justices V.S. Sirpurkar and Deepak Verma.

“The innocent student, after having invested time, money and effort, receives a piece of paper as a degree which has no value or substance. The students ultimately find themselves being robbed of the value for their money paid for services offered by such deemed universities,” he alleged in his petition.

As the establishment of universities was held to be a legislative act, institutions could not be conferred deemed university status by the executive, the petitioner argued. Section 3 of the UGC Act, which confers the power on the Centre to notify deemed universities, amounted to delegation of an essential legislative function to the executive and this rendered Section 3 ultra vires of the Constitution, the petition claimed.

The outcome of the second case will be watched with interest as it involves the judicial review of a legal provision that stood the test of time until allegations about its abuse began to surface in recent years. But it is clear to any observer that the outcome in the first case will have a bearing on the second case, even if the prayers of the two petitioners are different.

In the first case, the petitioner, Viplav Sharma,
an advocate, sought a direction from the court to the government to confer the deemed-to-be-university status only on institutions providing quality training and certifications, producing highly rated research material, and having quality professionals with global acceptability. The United Progressive Alliance (UPA) government, which initially opposed his petition, changed its stance after it returned to power following the 2009 general elections, and the assumption of office by Kapil Sibal as the new Human Resource Development Minister.

UGC REVIEW
On June 4, Sibal directed that all pending proposals for conferring deemed-to-be-university status on institutions that had applied for the same be held in abeyance until a thorough review of the functioning of the existing deemed-to-be-universities was undertaken. He also directed the UGC to review the functioning of all such universities and report within three months the deficiencies with respect to maintenance of standards, qualifications of the faculty and the quality of infrastructure. Sibal pointed out that the deemed-to-be-universities should have obtained the accreditation of the National Assessment and Accreditation Council (NAAC) or the National Board of Accreditation (NBA), as the case may be, within a prescribed period. Therefore, he asked the UGC to specifically report as to what the status was about accreditation and also about the rectification of deficiencies as must have been pointed out by the UGC in its periodic inspections. He wanted the information on the above to be furnished for each of the 130 deemed-to-be-universities.

Although those three months were over long ago, it is not known whether the UGC has submitted its report to Sibal. Even in its affidavit to the Supreme Court in the Viplav Sharma matter, the Central government is silent on this report.

The NAAC (an autonomous body established by the UGC in 1994) has granted accreditation to 140 institutions. The State-wise list of these institutions, available on its website, shows that some of the 44 deemed but failed universities are indeed among them. They include the Gurukul Kangri Vishwavidyalaya, Haridwar; Tilak Maharashtra Vidyapeeth, Pune; and the Janardan Rai Nagar Rajasthan Vidyapeeth, Udaipur. The number of institutions that had earned accreditation from the NBA (set up by the All India Council for Technical Education in 1994) is not available from its website.

The Human Resource Development Minister set up the Tandon Committee, in addition to this review by the UGC, to ascertain whether these universities were serving the purposes for which they were so declared, and whether they were complying with the conditions, if any, mentioned in the notification by the Central government in each case.

ONLY PARTS OF TANDON COMMITTEE REPORT REVEALED
In its affidavit, the Central government has chosen to reveal only parts of the Tandon Committee report. The committee comprised Prof. P.N. Tandon, formerly of the All India Institute of Medical Sciences, New Delhi, and a former President of the Indian Na-
ional Science Academy; Prof. Goverdhan Mehta, a former Director of the Indian Institute of Science, Bangalore; Prof. Anandakrishnan, former Vice-Chancellor Anna Technical University and at present Chancellor of the Indian Institute of Technology, Kanpur; and Prof. Mrinal Miri, former Vice-Chancellor of North Eastern Hill University, Shillong.

The committee invited all deemed-to-be-universities for presentations and face-to-face discussions in August and September 2009 in four sessions. A total of 126 institutions attended these sessions. The committee had sent questionnaires seeking all relevant information to these institutions and sent public notices seeking public participation of students and faculty of these universities.

On the basis of their responses, the committee submitted its report on October 20, 2009. Meanwhile, the UGC submitted reports to the government on 47 of these institutions, and the government made these reports available to the Tandon Committee.

In its affidavit, the Centre has revealed that the Tandon Committee found several aberrations in the functioning of these universities. The committee concluded that only 38 of these universities justified their continuance as “deemed universities”; 44 institutions were deficient in some aspects, which needed to be rectified over a three-year period; and, finally, 44 institutions neither on past performance nor on their promise for the future had the attributes to retain their status as deemed-to-be-universities. Sixteen of these 44 institutions are in Tamil Nadu.

The affidavit only revealed some general adverse comments of the Tandon Committee against the rogue institutions. Although all the 44 institutions whose deemed status was to be withdrawn were named in its annexure, the affidavit refrained from mentioning the specific grounds on which each of these invited derecognition.

Thus, the committee found “undesirable management architecture” where families rather than professional academics controlled the functioning of institutions. Several institutions were engaged in thoughtless introduction of unrelated programmes and proliferation of degrees beyond the mandate of the original terms of grant of deemed-to-be-university status. It also found very little evidence of noticeable efforts by some institutions in regard with emerging areas of knowledge.

With the notable exception of some publicly funded institutions, very few institutions could produce evidence of “quality” research in terms of publications in leading high-impact journals in respective fields.

The Tandon Committee found several aberrations in the functioning of these universities.

Lack of commitment towards research and irresponsible exercise of power with regard to admission, intake capacity, programmes and fee structure were found to be other attributes of such institutions. Many of these, which were once colleges, increased their intake capacity disproportionately and in some cases exponentially in relation to the qualified faculty strength and other academic infrastructure.

In several institutions, undergraduate and postgraduate programmes had been fragmented with concocted nomenclatures. Several institutions have prescribed fee structures considerably higher than those recommended by the official fee structure committees.

The Tandon Committee members also became members of the task force constituted by the Centre on November 16, 2009, to prepare an action plan to safeguard the interests of students enrolled in institutions whose deemed-to-be-university status was proposed to be revoked in the public interest. The task force recommended that all pre-existing colleges not found suitable for the status of deemed-to-be-university should revert to the status quo ante as an affiliated college of the State university so that students would be able to complete their on-going courses and obtain degrees from the affiliating university.

Where an institution is unable to obtain affiliation, it suggested that every effort should be made to facilitate migration or re-enrolment of students to equivalent or similar courses in other institutions.

The affidavit estimated the total number of students enrolled in these 44 institutions to be 1,19,363 at the undergraduate and postgraduate levels, in addition to 2,124 students pursuing research in M.Phil and PhD programmes, and an estimated 74,808 students pursuing Distance Education programmes. These 44 universities are spread over 13 States, and they could be affiliated to 28 existing State universities, it said.

The task force made it clear that the entire cost of migration and rehabilitation of affected students should be at the expense of the management of the failed institutions and must come from the corpus fund that was required to be maintained in respect of each under UGC guidelines.

The Supreme Court’s intervention might have tied the hands of the Centre with regard to derecognising the 44 deemed-to-be universities that the Tandon Committee has found to be unworthy of deemed status. But the Centre has to blame itself for its hasty announcement in its affidavit that it accepted the reports of the Tandon Committee and the task force. The announcement led to widespread concern and unrest among the students of these universities.

The Supreme Court’s intervention might have tied the hands of the Centre with regard to derecognising the 44 deemed-to-be universities that the Tandon Committee has found to be unworthy of deemed status. But the Centre has to blame itself for its hasty announcement in its affidavit that it accepted the reports of the Tandon Committee and the task force. The announcement led to widespread concern and unrest among the students of these universities.
A February 26, 2010 issue of Frontline published a report titled "Missing doctors," which discusses the public health crisis in India. The report highlights that India carries 20 per cent of the global disease burden, which is less than its share of the world population at 17 per cent. Specifically, this includes a disproportionately high share of the global burden of pre-transition communicable diseases and other vaccine preventable diseases: 23 per cent of child deaths, 20 per cent of maternal deaths, 30 per cent of tuberculosis cases, 68 per cent of leprosy cases, 50 per cent of polio cases and 14 per cent of HIV infections. Mortality as a result of communicable diseases amounts to 2.5 million child deaths and an equal number of adult deaths a year. If one adds the poor maternal and neonatal health status to the above statistics, communicable diseases account for nearly half of India's disease burden.

**Human Resource Crisis**

The primary reason for this difference in the availability of primary health care services is the human resource crisis. There is an acute shortage of medical professionals on the one hand; and a highly iniquitous distribution of the numbers that exist on the other. Three-fourths of 0.7 million graduate doctors legally permitted to practise as qualified doctors operate in and around urban areas, thus catering to just 28 per cent of the country's population and leaving the rural folk underserved or totally neglected in terms of basic health care. "In large parts of the country there is no semblance of a subsisting primary health care system," remarked the 13-member NRHM task force set up to address the issue of medical education and the human resource problem.

The primary health care infrastructure in the country is a three-tier system with Sub-Centres (S.Cs), Primary Health Centres (PHCs) and Community Health Centres (CHCs). The S.Cs are the most peripheral and the first contact point between the health care system and the community. The PHC is the first contact point between the village community and the certified medical officer. A CHC, with specialised services in the form of surgeons, obstetricians and gynaecologists, physicians and paediatricians, is a referral unit for four PHCs. According to the 2008 Bulletin on Rural Health Statistics (BRHS) of the Ministry of Health and Family Welfare, there are (as of March 2008) 1,46,036 S.Cs, 23,458 PHCs and 4,276 CHCs. However, on the basis of the norms set by the Ministry and the 2001 Census, there is a shortfall of 20,486 S.Cs, 4,477 PHCs and 2,337 CHCs.

But the situation is actually worse because of the...
deficiency in the human workforce even in the established units. At present, a sub-centre is not designed to have a qualified doctor but is manned by at least one Auxiliary Nurse Midwife (ANM)/Female Health Worker (FHW) and one Male Health Worker (MHW). There are 24,375 doctors serving the PHCs, which, given the estimated rural population of about 830 million, implies a doctor population ratio of 1:34,000. This is much below the global standard set by the World Health Organisation (WHO) of 1:250. Compare this with the figure of 1:472 in Delhi, for example. In fact, the country (rural+urban) average of 1:1676 is itself much less than this and does not compare favourably with those in other parts of the world.

But, more significantly, according to the BRHS, there is a serious human resource shortfall in all the tiers (see bar charts): 12.4 per cent shortfall of the total requirement in FHWs/ANMs, 56.8 per cent in MHWs and 15.1 per cent in doctors at PHCs. The BRHS points out that a significant fraction of the sanctioned posts are vacant at all levels; 18.8 per cent specifically in respect of doctors at PHCs. Of the 23,458 PHCs, 12.4 per cent are without a doctor, 37.8 per cent without a lab technician and 16.3 per cent without a pharmacist. At the sub-centre level, 6 per cent are without an FHW/ANM, 41 per cent without an MHW and 5 per cent without either. As the task force pointed out, “doctors ‘in position’ does not necessarily mean that the doctors are physically present at their respective centres and performing their duties; in fact, absenteeism is very high.”

THE VICTIM: RURAL INDIA
As a result, primary health care for the rural poor is served largely by untrained, unlicensed and unregulated rural medical practitioners (RMPs) and what they practise is often nothing but quackery. In a study conducted in rural Uttar Pradesh in 1995, only 3 per cent of medical practitioners were MBBS graduates or allopathic practitioners, while 68 per cent had no training in any form of medicine. But, more pertinently, as a paper in the Indian Journal of Community Medicine by C.S. Pandav and associates from the All India Institute of Medical Sciences (AIIMS) points out, “this shortfall in rural areas is only going to increase, more so with corporatisation and privatisation of health systems…. We have to be realistic and accept that trained doctors who have put in 10 years or so in training and are predominantly from urban areas are unlikely to want to go to villages.”

“After 4 ½ years of the main course and one-year of internship,” says the task force report, “the finished graduate has very little ‘hands-on’ experience. Most graduates are not confident enough at that stage to even provide primary health care services independently. The MBBS curriculum is closely linked to a tertiary care hospital. And, therefore, the graduates cannot function in a setting where there is no multidisciplinary support, or advanced diagnostic hardware” (emphasis original). Indeed, recently the Chhattisgarh government advertised for nearly 1,200 posts of MBBS graduates to fill positions in PHCs. It received only 400 applications.

The report further says: “The shortcomings perceived by the fresh medical graduates are principally the outcome of their urban orientation and the skewed pattern of their aspirations.... The few with a rural background acquire an urban mindset in the course of their training that is focussed around a tertiary care hospital.... Most graduates aspire to spend their career in the same urban ambience that they are familiar with... [It] is because of this fixed mindset that the young graduates fail to position themselves comfortably in the social ambience of the country, and also fail to recognise health services as a fundamental requirement of the community.”

It has been argued by experts that the solution for rendering primary health care to the underserved rural and urban poor population lies in a short-term, affordable medical course to create a cadre of health professionals with emphasis on clinical training and a problem-solving approach, with non-clinical principles meshed with clinical training. China’s “barefoot doctors” during the Cultural Revolution period, which later got integrated into the national health policy as Rural Cooperative Medical System (RCMS), is perhaps the earliest example in the independent developing world to address rural primary health care. In the 1960s, the RCMS covered nearly 90 per cent of China’s villages. The WHO
has regarded the RCMS as a “successful example of solving shortages or medical services in rural areas”.

Indeed, such mid-level health workers or non-physician clinician (NPC) programmes have evolved more recently in Nepal, Thailand and Vietnam and the countries of Africa and the Pacific to cater to the specific requirements of individual countries in their rural settings where regular physician-doctors are in short supply, and have been generally successful.

In a December 2006 editorial, the medical journal *Lancet* commented: “Employment of [mid-level] non-physicians would ease human resource constraints, such as shortages of trained professionals, because of international migration...or reluctance to be deployed to rural areas. Costs would also be reduced because mid-level providers are less expensive to train and easier to train and generally need less complex diagnostic tests and equipment in their practice. In some circumstances, mid-level providers might even provide better quality of care, because they are focussed on specific tasks, relate better with local communities, and could have a more holistic approach to the problems at hand.”

A 2008 WHO report acknowledged the success and increasing spread of the use of mid-level practitioners but argued for their integration into the national health policy framework, standardisation of their categories and training and, most importantly, data gathering of the impact and experiences of such systems across the developing world.

But such an intervention has not been forthcoming from Indian policymakers despite repeated recommendations to that effect by expert groups. The National Council on Macroeconomics and Health (NCM&H), also constituted in 2005, noted: “Training the existing RMPs, who enjoy a measure of social consent, over three years could have the twin benefits of addressing over 80 per cent of health care needs within the village habitation itself and also at the same time relieve the pressure on the production of trained medical doctors who, by virtue of their training and professional aspirations are reluctant to serve rural villages.”

Indeed, one of the important terms of reference of the NRHM task force was to examine the feasibility of such a short-term course. “We have for far too long,” said the task force, “clung to the belief that only graduate doctors can render competent health care, and that all other attempts to deliver health services are ill conceived and against patient interest. The task force is of the view that this bland assertion needs to be critically examined.”

Accordingly, it recommended a three-level health care system: the first level would be limited to a restrictive service package of primary health care, provided by practitioners with appropriate training; the second level would be that of graduate doctors; and the third, that of specialists.

“The appropriate medical education,” it said, “for service providers of the first level would be less elaborate than that required for a graduate MBBS degree, but is considered entirely feasible to ensure that the skills available to a short-course service provider would be fully adequate for the common conditions included in that level of health care.”

It further clarified that the variant considered was not a short-course health practitioner with an open licence to practise across the entire allopathic domain but a short-course training after which the practitioner would be licensed to provide medical services within a notified package of primary health care.

It may be mentioned in passing that pre-Independence India did have a short-duration course for Licentiate Medical Practitioners (LMPs); it was a three-year course in medical schools. It was the LMPs who delivered health care in rural areas. The Bhore Committee report of 1946, however, recommended that the licentiate qualification be abolished and all available resources be directed to produce one type of doctor after a five- and-a-half-year training. There were dissenting views in the committee on the grounds of manpower shortages, particularly for the rural areas where the “basic doctor would not willingly fit”, “India’s six decades of chronic shortages of doctors in the rural areas are a grim testimony to this fact,” wrote K.M. Shyamaprasad, former vice-president of the National Board of Examinations of the Ministry of Health and Family Welfare, and Meenakshi Gautham, a public health specialist (*The Hindu*, November 5, 2009).

The training module that the task force envisaged for the first-level primary health care practitioners was a three-year B.Sc. (Health Science) course, which would include both clinical and non-clinical subjects, qualifying them to be called Community Health Practitioners (CHPs) and not doctors. The training would comprise two years in an institution and a one-year internship, both in allopathy. It also considered a variant of the same for graduates in alternative forms of medicine – ayurveda, unani, siddha and homoeopathy – as well as pharmacy, dentistry and nursing as a two-year course. It recommended that government functionaries – ANMs, MHWs and FHWs – be encouraged to take the short course after serving a minimum of five years in a rural area. It said that the short course could be conducted by any university with a health science faculty or medical colleges, dental col-
leges or nursing colleges if the conditions set out by the statutory body – similar to, but distinct from, the Medical Council of India (MCI), which regulates graduate degree education – are satisfied.

DOUBTS AND PROBLEMS

The task force also sought to dispel the doubts of sceptics who fear that the short-course practitioner would not restrict himself/herself to the primary health care situation and would feel free to practise over the entire domain of medical conditions, which would amount to quackery. “It needs to be recognised,” it said, “that today most of the practitioners in the rural areas are quacks in as much as they have no training…. It is the considered view of the task force that in the suggested scheme the risk of quackery would stand reduced, rather than increased. Also it would result in good quality primary health care services being delivered to citizenry on a much wider scale than is available through graduate doctors today.”

It also noted that the fraternity of graduate doctors had been averse to this on the grounds that it would create a twin-tracks health system under which the elite would have superior health services, and the others would have sub-standard services delivered by an inferior cadre. “By insisting on health services through graduate doctors, or nothing,” the task force observed, “the medical fraternity has created a situation in which vast numbers got nothing…. The delivery of primary health care services through short-course community health practitioners runs no untoward risks. In fact, if the delivery of primary health care services were further delayed, the unserved population would have reason to believe that the restriction, which is purportedly being enforced in their interest, is actually the vested interest of a group.”

A major stumbling block, however, has been portrayed all along as a legislative one, particularly by the MCI. But it is only apparently so. The MCI has maintained that such a course is not permissible under Section (12)(b) of the Indian Medical Council Act of 1956, which states, “No person other than a medical practitioner [as defined in the Schedules of the Act] enrolled on a State Medical Register] shall practise medicine in any State.”

However, following up on the recommendations of the task force, the 9th Conference of the Central Council of Health and Family Welfare, held in November 2007, resolved as follows: “That all the State governments bring out an enabling legislation on the lines of the Acts passed by Chhattisgarh and Assam States so as to introduce a three-year diploma course in Medicine and Public Health in order to provide manpower to address rural health care needs.” The Central Ministry’s presentation at the conference on the NRHM highlighted the need to develop a three-year programme for Basic Medical Practice as part of the Mission. Indeed, congratulating the government on launching the NRHM, the Assam Health and Family Welfare Minister criticised the conflicting role of the MCI in promoting medical education and in augmenting manpower resources.

Assam has been a forerunner in this initiative. In 2004, it brought in the Assam Rural Health Regulatory Act to start a special medical course, namely Diploma in Medicine and Rural Health Care (DMRHC), and to provide for the establishment of a regulatory authority to enable the diploma holders to man the rural PHCs.

Similarly, on July 26, 2007, Chhattisgarh passed the Chhattisgarh Chikitsa Mandal Bill, to create a three-year diploma course called “Practitioners in Modern and Holistic Medicine” to fill gaps in rural medical services at the PHC level. The details of it provided in the Chhattisgarh NRHM Project Implementation Plan of 2008-09 are illuminating: “The [Chhattisgarh] government,” it says, “is moving towards pooling a force of medical personnel from the three-year medical training programme,… which has been designed and run by the State universities. These students are trained in institutions especially set up for this purpose with adequate clinical exposure and internship training in public hospitals.” More recently, on December 16, 2009, the West Bengal Assembly passed the Rural Health Regulatory Authority Bill, an enabling legislation to introduce in the State a three-year diploma course in Medicine and Public Health “to meet the requirements of medical practitioners in remote and rural areas”. Clearly, de-
despite the MCI stand, these three States have implemented, in essence, the recommendations of the NRHM task force.

**POLICY AFTER PIL**

But after nearly three years of inaction, this issue of a short-term medical course for primary health care workers has suddenly assumed importance in the Centre’s policy initiatives following the filing of a joint Public Interest Litigation (PIL) in the Delhi High Court by Meenakshi Gautham and the Garhwali Community and Development Society, Uttarakhand, against the Union of India and the MCI. Arguing essentially for the implementation of the task force’s recommendations and the Central Council’s resolution of November 2007, the petitioners have requested the court to (a) declare Section (12)(b) of the IMC Act unconstitutional as it denies the fundamental right to health to a majority of people of India; and (b) direct the Centre to introduce a short-term course for training health workers for primary health care in rural areas and then license and regulate its graduates.

It is pertinent at this point, however, to ask how the States could introduce such short-term courses in contravention of the IMC Act and against the directives of the MCI. According to the interpretation of the IMC Act by the Supreme Court, MBBS qualification is required only for registering a practitioner in the Indian Medical Register regulated by the MCI. Education is in the Concurrent List and hence States can independently enact appropriate legislation to introduce medical courses with lesser qualification in public interest for registering in the State Medical Register, but not the Indian Medical Register. The Supreme Court has held that such health professionals can practise modern medicine and prescribe scheduled drugs after registering themselves in the State Medical Register. But there has been little or no follow-up action at the Centre on the task force recommendations and the council resolution. “That is why we are seeking the council’s directive for radical shifts in the medical education system,” Meenakshi Gautham pointed out.

The developments in States like Chhattisgarh on the public health front and the need to respond to the recent petition would seem to have forced the MCI’s volte-face. In its affidavit, it has come up with a framework for starting a course leading to a degree called “Bachelor of Rural Medicine and Surgery” (BRMS) to be run by medical schools and conferred by universities to which such medical schools are affiliated. In fact, the MCI evolved this framework over two meetings in December 2009 following the filing of the writ by Meenakshi Gautham and the GCDS.

However, as the petitioners point out in their counter-affidavit, the BRMS is conceptually different from what they have argued for and what the task force had recommended. Indeed the use of the word “surgery” betrays a wrong conceptual basis of the proposed course. Moreover, the Central Council’s resolution had urged the State governments to enact enabling laws in which the MCI would have no role to play. They have further argued that the need is to take the task force recommendations forward rather than evolving new structures ab initio as the MCI was planning to do, which would call for amendment of the Schedules under the IMC Act or enactment of a new law.

Interestingly, ignoring the task force recommendations and the Central Council’s resolution, the Central Ministry has, in its affidavit, spoken of BRMS as an “important and significant step being formalised”. Indeed, in its recent address to the Social Editors Meeting in New Delhi, Union Health Minister Ghulam Nabi Azad said that the government, in association with the MCI, was working out the details of a cadre of medical workers, through a new three-and-a-half-year BRMS course, who would work at the S.Cs and the PHCs. Interestingly, at the hearing on January 27, the court criticised the MCI for not having done anything all these years and asked the government to file a detailed affidavit dealing with the task force recommendations and the resolution of the Central Council. The next hearing is scheduled for March 10.

But more interesting is the position taken by the medical fraternity at large. The Indian Medical Association (IMA) has opposed the BRMS proposal. In its memorandum issued on January 25, the IMA says: “The scheme is totally ill-conceived, impractical, retrograde, discriminating and undemocratic step...it will produce sub-standard doctors who...will be able to provide at best only compromised care to the rural masses.”

The IMA is clearly obfuscating the issue deliberately or is genuinely failing to understand the proposed concept of a cadre of health workers with limited domain of service designed only to cater to primary health care in rural areas. The task force, too, has considered such views and the report has its detailed responses to them.

The IMA seems to be trying to preserve its turf. In the past six decades, the cadre of MBBS doctors has failed to serve three-fourths of the country. But what is pertinent is how the Centre responds in its new affidavit – adopt the hastily conceived BRMS or implement the recommendations of the task force and the council resolution, that it was party to, in right earnest.
A student of history will find nothing in the E.C. reports of the 1990s and beyond about how decisions were made and conflicts resolved within the multi-member Commission.

To commemorate the 60th anniversary of its existence, the Election Commission on January 25 released a publication, *Lok Sabha Election 2009 – Reinforcing Indian Democracy*. A comparison of this publication with the narrative reports that the E.C. brought out after every general election from 1952 to 1980 shows how the Commission’s understanding of its role has changed over the years.

The E.C. discontinued the practice of publishing narrative reports after the 1980 general election. It submitted four annual reports to Parliament after 1983 in lieu of the narrative reports, but after 1987 even that practice was discontinued. It revived the practice to some extent when M.S. Gill, as the Chief Election Commissioner (CEC), came out with *Elections in India: Major Events and New Initiatives, 1996-2000*. This volume and the one released on January 25 consider the E.C.’s role as one of managing elections. The E.C. sees the peaceful conduct of general election to be in itself an achievement of sorts.

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The reports up to 1980 were introspective, an attribute that is conspicuous by its absence in later reports. Through its narrative reports, the E.C. maintained a tradition of analysing and commenting on the background and outcome of every round of general election and gave elaborate explanations for its decisions. This conveyed its concern for accountability and respect for public opinion.

The non-narrative reports, brought out after 1980, merely compiled statistics, and sought to divorce the E.C. from the political context in which it functions. A student of history will find nothing in the reports of the 1990s and beyond about how decisions had been made and conflicts resolved within the multi-member Commission.

There are many questions and issues that the E.C. alone can explain and enrich public discussion on them. The early CECs understood this role better and used narrative reports for that purpose.

Contrary to the popular impression that the E.C. became proactive only after T.N. Seshan became the CEC in 1990, these reports suggest that his predecessors, too, were conscious of the independence of the E.C. from the government. During its initial years, the E.C. was also vested with the power to appoint election tribunals to decide on doubts and disputes arising out of elections. This power was later transferred to the High Courts.

Sukumar Sen, the first CEC, noted in the report on the first general election: “The E.C. has to function in accordance with the provisions of the Constitution and of the statute law relating to elections. In matters not covered by these, it has unfettered discretion to take its own decisions and to issue all necessary directions.”

**Universal Adult Suffrage**

Of particular interest is the E.C.’s elaborate justification for introducing universal adult suffrage in 1952. This was in accordance with Article 326 of the Constitution. The E.C. noted the arguments against adult suffrage and agreed that it had led to formidable administrative difficulties. But it also underlined that the adoption of the principle of adult suffrage by the Constituent Assembly was an act of faith – faith in the common man and in his practical common sense. The report traced the roots of adult suffrage to practices in ancient India.

The E.C., however, added a caveat: In order to ensure that the system of adult suffrage worked fairly and smoothly, two other conditions must be satisfied, namely (1) the conduct of elections must be strictly non-partisan or under neutral control, and (2) the executive government must sincerely desire free and fair elections and actively work for the same. The E.C.’s current strict enforcement of the Model Code of Conduct for the Guidance of Political Parties...
and Candidates, which restrains parties in power from influencing voters on the eve of elections, stems from this early understanding.

The E.C. returned to the subject of adult franchise in its report on the fifth general election (1971-72) by devoting a full chapter to its implications for economic freedom. It concluded that the general election to the Lok Sabha in 1971 and to the various Assemblies in 1972 had shown that the people of this country had awoken from their deep slumber after about a quarter of a century since Independence and that they had started to assert their valued rights to attain the objective of ameliorating their economic conditions.

“If adult suffrage fails, violence is sure to come and no one will be able to stop it. And if and when that dire and terrible event comes, no fantastic and mischievous theory of rigging elections will be of any avail to anybody,” the E.C. warned political parties, nudging them to fulfil their promises to voters if voted to power.

**VACCINATION BEFORE VOTING**
The report on the second general election (brought out in 1958) reveals that the E.C. had considered an interesting suggestion to check impersonation. Instead of marking the left forefinger of a voter with indelible ink, it considered compulsory vaccination or re-vaccination of the voter for smallpox before he or she received that ballot paper. A vaccination mark would remain fresh and prominent for well over a week and a voter would not be able to impersonate another voter during that period.

The E.C. had no doubt about this method’s effectiveness but believed that it could be adopted only with strong public support. Political parties would have to be consulted and their substantial concurrence obtained, too, it pointed out. It called upon the government, political parties and the general public to consider this method as it would be useful and also desirable from the point of view of public health. However, the report is silent on the response of the people and political parties. In the first and second general elections, the symbol system of voting was used. Here, the voter dropped the ballot paper into the box bearing the symbol of his or her choice, rather than mark his or her preference on the ballot paper.

In November 1956, the E.C. discussed with national political parties whether a marking system could replace the symbol system. Except for the Praja Socialist Party, the three other parties – the Indian National Congress, the Jana Sangh and the Communist Party of India – did not favour its immediate adoption in the second general election of 1957. However, the E.C. adopted the marking system successfully in the 26 by-elections held after that and in the third general election.

**EVMS**
The E.C. did not try a similar consensus method to introduce electronic voting machines (EVMs). It used them in a by-election in 1981, the result of which was later struck down by the Supreme Court. The E.C. then introduced EVMs in a limited way in the 1998 Assembly elections in Rajasthan, Madhya Pradesh and Delhi. In June 1999, the entire Assembly elections in Goa were conducted with EVMs. Encouraged by these results, the E.C. began to make use of EVMs gradually in the Lok Sabha and Assembly elections.

M.S. Gill recalls in the 2000 report that the E.C. stood firm on the use of EVMs when some political leaders expressed reservations about them. On this, the E.C. was, of course, emboldened by the amendment carried out by Parliament in 1989 to the Representation of the People Act, 1951, to facilitate the use of EVMs.

Since 2004, the E.C. has conducted the elections to the Lok Sabha and the State Assemblies only through EVMs. This was after securing judicial verdicts in its favour, following challenges to their use from the All India Anna Dravida Munnetra Kazhagam in Tamil Nadu and the Punjab unit of the Congress.

The process of seeking and evolving a consensus was easier during the early years of the E.C. The exercise is now complicated with the emergence of many political parties and their varied perceptions on what reform would mean in terms of electoral benefits.

**MODEL CODE**
Today, the Model Code of Conduct is considered the basis for evaluating the conduct of political parties and candidates in the run-up to elections. The code was evolved in 1972, on the eve of Assembly elections, by the then CEC S.P. Sen-Varman after discussions with political parties.

The E.C.’s first annual report in 1983 reveals that the first endeavour to frame a model code of conduct was taken up in 1960 in Kerala before the Assembly elections after the State’s political parties approved it. The E.C. circulated this code to all recognised political parties and the State governments on the eve of the 1962 general election. By and large, it was followed in that election. In 1967, Andhra Pradesh and West Bengal accepted the Kerala code.

In his report on the midterm Assembly elections of 1968-69, S.P. Sen-Varma expressed his satisfaction that political parties and candidates by and large kept their promise to observe the code, and this resulted in peaceful elections. Amplified from time to time, today’s Model Code of Conduct was finalised in 1991 by T.N. Seshan.

In his 1968 report, S.P. Sen-Varma claimed that the 1967 general election proved that the Indian voter was gaining maturity for the first time. The voter could no longer be taken for granted by any political party, however well established or well entrenched it was. Drawing from personal experience of interactions with voters in rural areas in disguise, he suggested that the voters were sensitive, would not brook indifference or maltreatment, and had a sense of self-respect. The sharp fall in the percentage of rejected votes also convinced S.P. Sen-Varma about the voters’ growing maturity.

The midterm elections to the State Assemblies in 1968-69 led to the E.C.’s
concern about instability in the States owing to defections. No single party had got absolute majority after the previous round of elections. The experience led the E.C. to conclude that coalition governments could not, by their very nature, always be stable and could not pursue any progressive policy with firmness.

The 1969 split in the Indian National Congress reduced the parliamentary party of the Indira Gandhi faction, known as the Congress (R), to a minority in the Lok Sabha, which consisted of about 520 members then. The strength of Congress (R) was a little less than 225. The Indira Gandhi government thus depended on the support of other parties and groups for survival in office.

In its report on the fifth general election in 1971-72 (Narrative Reflective Part), the E.C. defended the Congress (R) government’s decision to dissolve the Lok Sabha. It also offered an elaborate justification for the President’s powers to dissolve the Lok Sabha, on the advice of the Council of Ministers, before the completion of its tenure of five years.

Citing the constitutional provisions of Canada, Australia, and Britain, the E.C. concluded that any intelligent government would not desist from advising the head of state to dissolve Parliament if it felt that the time was favourable for obtaining a people’s verdict for its party.

In his preface to the E.C’s report on the general election of 1977, T. Swaminathan, the CEC, said that the Commission should not be concerned with the result of any election, while acknowledging the historic assumption of office by a non-Congress government for the first time.

However, Swaminathan’s successor, S.L. Shakdher, did not feel inhibited to offer his analysis of the general election of 1980: “The Janata Party government should have had no difficulty in completing its tenure of five years. Events, however, began to move in swift succession from which it was apparent that the constituents of the Janata Party could not forget their past affiliations and could not work as a single party. The life of the Lok Sabha was brought to an end within two-and-a-half years from the date of its constitution because of the instability of the two governments.”

He lamented that the E.C’s recommendations for electoral reform were not examined by the Janata Party government although its manifesto had promised electoral reform as one of the main agendas. “Had these proposals been enacted, it would have further strengthened the hands of the Commission in pushing forward the process of free and fair election,” he wrote.

The tone and tenor of the E.C’s early narrative reports may be debatable, but they do suggest that vote in a democracy is not merely mechanical. It is an expression of opinion, right or wrong, wise or foolish, on the basis of free public discussions between those with opposing views and opinions.

In his report, S.P. Sen-Varma cites the French publicist Alexis de Tocqueville as having said that the actual voting in a democracy is clearly less important than the discussion which precedes the vote; for this discussion defines policy, illuminates the situation and the forces available for dealing with it, and tends to make all citizens more willing to live in peace with those who disagree with them.

The expansion of the E.C as a three-member body in the 1990s has given it an opportunity to take decisions in a more democratic manner than what would have been possible under a single member. But democratic functioning of the Commission has not kept pace with the increasing expectation of transparency within it.
Jyoti Basu

AN era has ended with the passing away of CPI(M) patriarch Jyoti Basu, more fondly known as Jyoti babu (Cover Story, February 12). His death leaves a void.

The articles on the leader with rare black-and-white photographs and the tributes from eminent personalities have made this issue a sort of a biography of Jyotibabu. This issue will remain with me as a "collector's item".

S. BALAKRISHNAN
JAMSHEDPUR
JHARKHAND

WE have lost a great Indian. Jyoti Basu was a man of high integrity and character. He will best be remembered as a mass leader. His demise leaves a void, which will be difficult to fill.

VINOD C. DIXIT
AHMEDABAD

JYOTI BASU neither wavered in his decisions nor encouraged factionalism within the party. His 23 years as Chief Minister are considered to be the best period in the State because he could go to the crux of any problem and come out with a quick solution.

His lifestyle, based on simple living and high thinking, should serve as a model to all present-day politicians, who seem to want to cling to power at any cost. By donating his body for medical research, he proved that he was a humanist to the core.

K.R. SRINIVASAN
SECUNDERABAD

THE Cover Story may be the best tribute to a man who was Chief Minister continuously for 23 years and was denied the opportunity to make history when his party was against his accepting the post of Prime Minister in 1996. The fact that it was offered to him showed the confidence other political leaders had in his ability. And in his death they all joined to pay their respects.

A. JACOB SAHYAM
THIRUVANANTHAPURAM

FATE denied Jyoti Basu the headline "The former Prime Minister passed away". Marxist dogma confined him to being a regional leader. We have lost a leader whose great potential was unutilised.

S. RAGHUNATHA PRABHU
ALAPPUZHA, KERALA

AMONG Jyoti Basu’s many achievements, the massive distribution of land among landless peasants and the establishment of the three-tier panchayati raj system will stand high. This was why he was loved by the poor. Religious minorities will never forget his fortitude, which protected them from communal unrest during the anti-Sikh riots and after the Babri Masjid demolition. Perhaps he was the only leader in the country so far to have organised the workers' movement while in power.

SYED SULTAN MOHADDIN
KADAPA, A.P.

A LIFE of struggle, unprece-dented political success, integrity and commitment all the way defined the person-sona of Jyoti Basu. His twodecade-plus stint as Chief Minister was indeed an example of an alternative way of governance. There are few parallels in India of the land reforms he introduced.

He always believed that communists were destined to play a major role in preserving the country’s secular credentials. He was a genuine leader of the masses.

ATUL KUMAR THAKUR
GHAZIABAD, U.P.

JYOTI BASU has been praised for land reforms and increase in agricultural output in West Bengal during his tenure as Chief Minister. However, the yields from those reforms dwindled after a time. Bengal’s growth was hampered because of the Left Front’s hostile attitude towards the Centre; the State lost large-scale industrial projects. Simultaneously, the existing infrastructure was slowly dismantled under his leadership. He contributed to the politicisation of education and the police.

History will not be kind to Jyoti Basu, who presided over the transformation of Kolkata from a thriving cosmopolis into a moribund provincial wasteland.

M. MEGHANA
NEWCASTLE UPON TYNE, U.K.

Haiti

THE devastation caused by the earthquake in Haiti reminds one of the vulnerability of life and of the need to work together in times of crisis ("Haiti’s horror" and "Plan of death", February 12). All nations need to help Haiti in its gigantic task of relief and reconstruction.

D. VINOD

AHMEDABAD

Indians attacked

THE attacks on the Indian student community in Australia are indeed racially motivated ("Hostile host", February 12). Indians are frequently attacked because they are easy targets. The Australian authorities do not seem to be bothered about the safety of Indians.

The Indian government is equally at fault by failing to provide world-class educational facilities in India. Providing better education and eradicating the widespread unemployment may encourage students to remain in the country.

IPPILI SANTHOsh KUMAR
SRIKAKULAM, A.P.

Crime

THE verdict awarded in the case of former DGP S.P.S. Rathore after 19 years has raised eyebrows ("Delayed justice", January 29). Critics have justifiably lambasted the justice delivery system. There is no denying that the system is far from satisfactory. But the police are the main culprits. They play havoc with the system through their shoddy work.

Therefore, what needs to be addressed in the country is the problem of professionalism of the police.
The larger issue is how authorities in safeguarding influence of the higher authorities for the award of these medals? The involvement and no FIR could be filed for harassing by a police official when choosing police officers for the award of these medals? The Ministry of Home Affairs on the ground and what is delivered in the name of justice (“The rot within”, January 29). The behaviour of the police towards victims of rape and molestation leaves a lot to be desired. Rathore may have escaped the clutches of the law not only because of politicians but also because of faulty investigation and bad prosecution followed by sham trials and unjust decisions.

One reason for the inconsistency in the investigation of this sensitive case is the low priority accorded to criminal investigation compared with maintenance of law and order.

H. SYED MADANI
TIRUCHI, TAMIL NADU

THE culpability of Rathore cannot be measured easily. Not only did he molest a girl young enough to be his daughter but also tried in every possible way to break the will of her family and friends when they protested. His high rank gave him enormous leverage in political circles.

In the highly patriarchal society of Haryana, there is a deep-seated insensitivity towards the genuine concerns of women. This situation prevails throughout the gangetic plain. In fact, in India, ordinary people find it very difficult to register FIRs against those who are highly connected or are powerful.

RAJ BAHADUR YADAV
FATEHABAD, HARYANA

Indian hornbill
THE information provided in the article on the great Indian hornbill was very useful (“Cry from the Ghts”, January 29). I congratulate the author and the photographer for the information and the photographs. I also wish to convey my compliments to the magazine for its continued efforts to raise awareness about wildlife and biodiversity conservation.

ANIL BHARDWAJ
WILDLIFE INSTITUTE OF INDIA, DEHRA DUN

Corruption
THE article “Enemy within” (January 29) is thought-provoking. Fighting corruption is not the duty of the Prime Minister alone; every citizen should be involved in it. Instead of waiting for someone else to do it, let us be honest and straightforward in whatever we do.

N.B. JAYALEKSHMI
TIRUNELVELI, T.N.

THE article hits the nail on its head. As suggested by the writer, something tangible must be done confidentially at the Prime Minister’s level. The earlier this is done, the better.

K. NEHRU PATNAIK
VISAKHAPATNAM

Picasso
IT was delightful to find an article on Picasso in a mainstream Indian magazine (“Inspired etching”, January 29). He was one of the world’s most celebrated and phenomenal artists and his experimental idea of cubism and his timeless war painting “Guernica” changed the European art scene radically.

NEERAJ KUMAR JHA
MADHUBANI, BIHAR

Special issue
I HAVE been reading Frontline since its first issue. The commemorative issue (January 16) is like an autobiography of the magazine and is a valuable addition to everyone’s bookshelf. The layout and editorial content were superb.

R. KALYANASUNDARAM
CHENNAI

This is with reference to the article “The Hindutva Ride” (January 16). The RSS is a self-respect movement of Hindus. The Islamic Brotherhood was set up in 1920 in Egypt. The Self-Respect Movement was started by Periyar in the 1920s in southern India.

Similarly, the RSS was set up by concerned Hindus at that time because they had suffered for 1,200 years under the fascist yoke of the slave dynasty and the Mughals before the Britishers set foot on Indian soil. It is natural for a crushed people to organise themselves to regain their self-respect. The Rath yatra was carried out to restore the honour of the country.

AMRIT LAL RAWAL
NEW DELHI

The Indian justice administration system with all its pitfalls is still one of the best in the world.

BICHU MUTHATTARA
PUNE

OUTRAGE erupted over the meagre punishment awarded to Rathore. The problem is with the relevant section of the IPC, which prescribes a maximum of two years imprisonment for outraging the modesty of a woman but does not specify a minimum. Punishment needs to be more severe if the victim is a child.

The State government’s decision to have the CBI investigate the fresh cases registered against Rathore seems to signal the government’s lack of trust in the working of its police. Now that Rathore is not in service any more, why has the probe not been delegated to State’s crime branch?

HEMANT KUMAR
AMBALA CITY, HARYANA

A SIMPLE question arises: Who should be blamed? The facts show that a teenage girl was tortured and harassed by a police official and no FIR could be filed for years. The involvement and influence of the higher authorities in safeguarding him was clearly planned.

B.P. PEREIRA
MADURAI, TAMIL NADU

The larger issue is how women are treated in India – the gap between the realities on the ground and what is delivered in the name of justice (“The rot within”, January 29). The behaviour of the police towards victims of rape and molestation leaves a lot to be desired. Rathore may have escaped the clutches of the law not only because of politicians but also because of faulty investigation and bad prosecution followed by sham trials and unjust decisions.

One reason for the inconsistency in the investigation of this sensitive case is the low priority accorded to criminal investigation compared with maintenance of law and order.

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RAJ BAHADUR YADAV
FATEHABAD, HARYANA


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RAJ BAHADUR YADAV
FATEHABAD, HARYANA
FEBRUARY 26, 2010

Sri Lanka

The landslide

Mahinda Rajapaksa’s resounding victory is an indication that nothing has changed in terms of the ethnic divide in the country. BY B. MURALIDHAR REDDY IN COLOMBO

Rajapaksa polled 1.8 million votes more than his nearest rival, Gen. Fonseka, and it is impossible for any candidate to rig the mandate of the people on such a large scale. But the opposition is reluctant to accept the ground realities.

PRESIDENT Mahinda Rajapaksa proved puntits wrong by trouncing former Army chief and the common opposition candidate, General Sarath Fonseka, by a margin of nearly 18 percentage points. The hype and hyperbole created by the political foes of Rajapaksa had convinced everyone that the general-turned-politician would unseat the incumbent President. As one commentator noted, “considering pre-election prognostications by almost everyone in the punditry that the 2010 presidential election was going to be a close call, what resulted must indeed be called not a landslide, but an avalanche.”

How did the situation come to such a pass? The answer perhaps lies in the wishful thinking of puntits that the people of the island nation were fed up with the so-called dynasty politics of Rajapaksa and the tales about corruption and nepotism, and were yearning for a change. But the rural voters, overwhelmingly hailing from the Sinhalese community, sealed the fate of Fonseka.

The January 26 election was described as the mother of all elections in the 62-year-old history of Sri Lanka as an independent nation. It was mainly a contest between Rajapaksa, who chose to advance the election by nearly two years, and Fonseka. Rajapaksa’s decision to call an early election was solely intended to reap the full benefit of his popularity as the head of the state who had provided the leadership for the comprehensive military defeat of the separatist Liberation Tigers of Tamil Eelam (LTTE). But Rajapaksa had not anticipated the rise of Fonseka as the rallying point for all his political foes, including the pro-LTTE Tamil National Alliance (TNA), and the high-pitched opposition campaign targeting exclusively him and his kith and kin.

The opposition parties, though they hold diametrically opposite views on virtually every contentious subject, saw the politically ambitious commander as their best bet to oust Rajapaksa. They showed little care for consequences such as the politicisation of the military and the divisions in the already polarised society in the post-poll scenario. It did not require anything more than common sense to predict that the alliance of disparate and desperate elements would fall like ninepins once the dust kicked up by the presidential election settled, and well before the parliamentary elections in April.

The irony of the President being pitted against his former Army chief apart, the presidential race was devoid of important debates. The core issues concerning the ethnic conflict were sidelined though the military defeat of the LTTE had thrown up an opportunity to refashion and stabilise the relationship between the 75 per cent Sinhalese majority and the Tamil and Muslim minorities on the basis of genuine equality and justice.

The 14-point agenda put forth by the opposition candidate was vague and full of contradictions. Fonseka could ill-afford to antagonise the main opposition party, the United National Party (UNP), and the ultra-nationalist Janatha Vimukthi Peramuna (JVP), which are poles apart in ideology.
Though Fonseka tried his best to put at rest the doubts in the minds of majority community voters, his alignment with the TNA gave room for suspicion regarding a “secret pact” for the re-merger of the Northern and Eastern Provinces. The opposition attempt to sell the presidential election as a golden chance for constitutional and electoral reforms, eradicate nepotism and corruption in high places, and work for a solution to the ethnic problem was nothing short of sanctimonious humbug.

The outcome of the exercise, the first on such a scale in the post-Velupillai Prabakaran era, was of immense interest to all Sri Lanka watchers. It was considered to be the harbinger of a new political, economic and social welfare order after almost three decades of violence and terrorism. The opposition parties made the election look like a contest between Rajapaksa and the
THOUGH it has now been settled by the highest court of Sri Lanka that the second term in office of the re-elected President, Mahinda Rajapaksa, will begin on November 19, 2010, several questions relating to the issue remain.

The apex court communicated its opinion on February 2 on a request sought by the incumbent President. Rajapaksa is to take the fresh of oath of office and secrecy within two weeks from the date of commencement of his second innings.

What prompted Rajapaksa in the first place to seek the guidance of the Supreme Court on a subject that appears so obvious? Logic would demand that his second term commence immediately after he obtained a fresh mandate. But the Constitution of Sri Lanka proclaims otherwise.

Rajapaksa chose to seek the opinion of the apex court on the question of the actual date of commencement of his second term owing to differing views among legal luminaries on the relevant constitutional provision and a 2005 Supreme Court judgment interpreting the provision.

The incongruity was built into the Constitution thanks to the Third Amendment mooted by President J.R. Jayawardene in 1982 and can only be remedied by an appropriate constitutional amendment passed with a two-thirds majority vote.

Article 31(3A)(d), as amended by the Jayawardene government, reads: “The person declared elected as President at an election held under this paragraph shall, if such person:-

**i)** is the President in office, holds office for a term of six years commencing on such date in the year in which that election is held (being a date after such election) or in the succeeding year, as corresponds to the date on which his first term of office commenced, whichever date is earlier; or

**ii)** is not the President in office, holds office for a term of six years, commencing on the date on which the result of the election is declared.”

The operative portion in the reference made by Rajapaksa to the apex court says, “The opinion of the Supreme Court is sought on the question as to when my second term of office as the President of the Democratic Socialist Republic of Sri Lanka commences and ends having regard to the provisions of Article 31(3A)(d) (i) of the Constitution of the Republic.”

Legal experts hold divergent views on the Third Amendment and the 2005 judgment.

The question as to when the term of an incumbent re-elected President begins arose since Rajapaksa chose to hold the presidential election two years before the completion of his first term under the powers vested on him by the Constitution. The Third Amendment to the Constitution empowers the President to hold elections at the end of four years of his six-year term. As per the amendment, if the incumbent President is re-elected, his term of office will commence at the end of his first term. However, if the person elected is anyone other than the sitting President, such candidate will hold office for a term of six years commencing on the date on which the result of the election is declared.

This interpretation of the amendment was challenged in the Supreme Court in 2005. While disposing of a case on the date of commencement of office of the then President, Chandrika Kumaratunga (who was President from 1994 to 2005), the court ruled...
that her second stint commenced on the day she was declared elected.

The contention of the petition was that since her first term commenced in 1994, the second term must end in November 2006. The court ruled that her second term commenced in December 1999 and not in November 2000, paving the way for Rajapaksa’s election in 2005. He was pitted against Ranil Wickremesinghe, the candidate of the main opposition party the United National Party (UNP) then. The latest opinion of the Supreme Court in effect means that Rajapaksa will get five of six years of his first term, and six years commencing from November 2010 for his second tenure. The next presidential election will be due on or before November 19, 2016.


On February 1, when the case was taken up for hearing, Attorney-General Mohan Peiris argued that the second term of Rajapaksa would commence on November 19. President’s Counsel D.S. Wijesinghe, appearing for intervenient petitioner Mendis Rohanadeera, and President’s Counsel Nihal Jayamanne, appearing for intervenient petitioner Sarath Kongahage, maintained that the date should be November 19, 2011, since the people had given Rajapaksa a mandate of six years for his first term in office and that it cannot be abridged or truncated because he had won a second term of another six years.

Legal experts hold divergent views on the Third Amendment and the 2005 judgment. One section is of the view that the second term in office will have to commence within a reasonable period after the election, while the other is of the view that since Rajapaksa was elected for a six-year term in November 2005, he is entitled to complete his first term before taking fresh oath for the second term.

Legal activist and university lecturer Rohan Edirisinha pleaded in the court that the President had to assume office soon after the election. Edirisinha, who is head of the legal and constitutional unit of the Centre for Policy Alternatives, a Sri Lanka-based think tank, is of the view that there are serious flaws in the latest judgment, both in process and in substance.

The Supreme Court’s latest interpretation of the Third Amendment would mean that the gap between the just-concluded presidential poll and the next one will be seven, and not six, years as envisaged under the electoral laws of the country. Of course, it is an issue that the law-makers of Sri Lanka and the apex court, which has the powers to interpret the provisions of the Constitution, alone can address.

B. Muralidhar Reddy
The outcome, unfortunately, brought to the fore two serious fault lines in Sri Lankan society.

One, it proved once again that nothing has changed on the ground in terms of the ethnic and religious divide that characterises the basic identity of the island nation. Second, with serious implications for the medium and long term, it showcased for the first time the politicisation of the military.

A particularly unsavoury spectacle was the utter lack of grace on the part of the opposition in coming to terms with the ground realities. Almost two weeks after the election, the opposition continued to allege large-scale irregularities, particularly in the process of counting.

The opposition was reportedly even preparing to petition the Supreme Court questioning the legitimacy of the election result. Appeals from within and outside the island nation to the opposition parties, including from the United States and the European Union, which had made no secret of their desire for a regime change, to reconcile with the post-election realities have had little impact.

It is not that the election process was not flawed. State media as well as state resources were misused. The Elections Commissioner himself alluded to these violations before declaring the winner.

Both districts in the Northern Province were won by Gen. Fonseka.

But the truth is that Rajapaksa polled 1.8 million votes more than Fonseka. It is impossible for any candidate to rig the mandate of the people on such a large scale.

H.L.D. Mahindapala, an ardent supporter of Rajapaksa, pointed out in an article in *Daily Mirror* on February 1:

“As the voting pattern of the results reveals, the battle lines were drawn distinctly between the majority and the minority. The position of the Northern Tamils was predictable. Of the minorities, it is the Muslims who went against Mahinda Rajapaksa despite the fact that his domestic and foreign policy has been very much in favour of the Muslims. Despite the two major minority groups going against Mahinda Rajapaksa, he won the day because the Sinhalese stood by him solidly.”

There is certainly an expectation of stability, and President Rajapaksa needs to be humbled by this overwhelming public preference for him and to temper his second term with proactive acts of good governance and accommodation of the minorities and dissenting points of view. The absence of these were the negative aspects of his first term, which was marked by his resounding victory in the war, the reason why the Sinhalese-dominated areas voted for him overwhelmingly.

It is a fact that most of those who would have perhaps voted for the retired general did not bother to do so. For instance, of the 988,334 registered voters in the Northern Province, only 292,812 exercised their franchise. Jaffna district has 721,359 registered voters but only 185,132 voted; and of the 266,975 eligible voters in Vanni district only 107,680 voted.

Of 45,542 displaced voters in the North, only 25,541 exercised their franchise; of them 16,614 voted for Fonseka. Independent candidate M.
K. Sivajilingam received 3,754 votes in the Northern Province.

On the electoral outcome, Sri Lanka expert S.D. Muni writes:

“What basically carried him [Rajapaksa] through this gamble were his determination to militarily eliminate the LTTE and his control over the state apparatus. The war on the LTTE was fought under his leadership against heavy odds and international pressures. His campaign effectively drove home the point that despite his opponent and erstwhile Army Chief Gen. Sarath Fonseka’s claims for an equal share in crushing the LTTE, victory primarily belonged to him. In democracies, critical initiatives are the territory of the political leadership, not of the army generals or bureaucrats. The Tamil voters also seem to have endorsed this point, though negatively, by impressively voting against him in the LTTE-dominated North and East regions.

“President Rajapaksa’s incumbency gave him the critical control over the official machinery.”

The January 28 editorial of The Hindu best articulated the significance of the election. It read:

“Mahinda Rajapaksa’s victory in Sri Lanka’s presidential election has exceeded all expectations, including the most optimistic projections made within the President’s camp on the basis of hard-nosed pre-election opinion polls. The 17.73 percentage point margin of win is a reaffirmation of the maturity and good sense of ordinary voters who, given a choice between an experienced political leader in the saddle and an unpredictable adventurer sponsored by an unnatural combination of political irreconcilables, made it a virtual no-contest at the national level. The divergence in the voting behaviour of the Tamil minority and the Sinhala majority was as striking as it was expected; in turnout as well as choice of candidate, they behaved as polar opposites. This gives us a measure of the trust gap in the polity that needs to be bridged if Sri Lanka is to do well in future.

“...politics in the island can return to a more normal state ahead of parliamentary elections, which are due in April 2010.... The hope is that the campaigning will be on real issues, most importantly, a just and sustainable political solution to the Tamil question based on genuine devolution of power within a united Sri Lanka, and revitalisation and development of the war-ravaged areas of the North”.

SRI LANKAN TAMILS wait to cast their votes at a camp for internally displaced persons at Vavuniya on January 26.
The single largest negative fallout of former Sri Lanka Army (SLA) chief Gen. Sarath Fonseka’s decision to join the just-concluded presidential race is the politicisation of the nation’s military like never before. A series of developments – including what has been dubbed the biggest purge in the higher echelons of the military and the detention of a number of former military officers and soldiers – after the defeat of Fonseka, in the early hours of January 27, bear ample testimony to the sad state of affairs. A section of the media has quoted an unnamed military official as saying that it was the Army’s biggest-ever purge after the 1962 shake-up following a coup attempt by volunteer officers against Prime Minister Sirima Bandaranaike.

Over 15 former military officers and the general’s aides were taken into custody in connection with an alleged conspiracy to stage a coup against President Rajapaksa. A major purge was also carried out in the top ranks of the military.

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Even if one were to concede the opposition’s charge that President Mahinda Rajapaksa has launched a witch-hunt after registering a landslide victory, those who fuelled the presidential ambitions of the retired general cannot escape responsibility for the situation. The opposition has launched a high-pitched campaign against the government, obviously with an eye on the parliamentary elections scheduled for April, and it has done little by way of counselling Fonseka to exercise restraint.

That there was no love lost between the President and the general even before he became the rallying point for Rajapaksa’s political foes is well known. Fonseka himself went public with his much-publicised letter citing 16 reasons that prompted him to part company with the Sri Lanka Army after nearly four decades of association with it.

In his November 13 resignation letter, Fonseka claimed that on Rajapaksa’s request the Indian armed forces were put on high alert in mid-October on suspicion that elements loyal to him were plotting a coup against the President. According to him, the Sri Lankan establishment got in touch with New Delhi through the Indian High Commission in Colombo, conveyed its apprehensions, and sought help.

He complained in the letter that the government’s action tarnished the image of the Army. "... it
was noted that the same Army which gained victory for the nation was suspected of staging a coup and thereby alerting the Government of India once again on the 15th of October, 2009, unnecessarily placing the Indian troops on high alert. This action did tarnish the image and reputation gained by the SLA… This suspicion would have been due to the loyalty of the SLA towards me as its past Commander who led the Army to the historic victory.” New Delhi denied the claim in a matter-of-fact fashion.

He alleged that various agencies misled Rajapaksa about “a possible coup immediately after the victory over the LTTE which obviously led to a change of command in spite of my request to be in command until the Army celebrated its 60th anniversary. This fear psychosis of a coup is well known among the defence circle.”

HOTEL DRAMA
It is against this backdrop that the current developments involving some military men and close associates of Fonseka have to be viewed and judged. The drama began within hours after the counting of ballot commenced on the night of January 26, and Fonseka, along with his security contingent and a number of prominent opposition leaders, moved to a five-star hotel in the heart of Colombo citing security reasons. Till date there is no cohesive explanation from either Fonseka or the opposition leaders as to what prompted them to hire the whole floor of a five-star hotel. Their account that it was meant to pre-empt an operation by the government to round up the general and all the other leaders either in their offices or in their homes only leads to more questions.

If the intelligence agencies were keeping vigil outside their offices and homes, how did the opposition leaders assume that they could move into a five-star hotel without being noticed? Their justification was that they were convinced of victory at the polls and they believed that their collective presence in the hotel would upset the plans of the Rajapaksa regime to stage a political coup and prevent a smooth transfer of power.

But this makes little sense. No political leader with a basic understanding of the ground realities could be expected to move to the luxurious environs of a hotel leaving the counting centres entirely to the charge of second- and third-rung leaders in an election that was considered a do-or-die battle for Rajapaksa.

Little wonder, then, that once the election results started trickling in, the opposition alleged that while the voting was a peaceful affair, there was massive fraud during counting. Fonseka charged that by a single click of the mouse on a computer, 1.4 million votes he had polled were transferred into the kitty of the President. The charge has been categorically denied by those connected closely with the counting process, including Elections Commissioner Dayananda Dissanayaka.

This correspondent, who was one of the few journalists who met Fonseka in the wee hours of January 27, heard no such complaint from the general in the course of a 10-minute informal conversation. “So far, only the results of postal ballots from a few districts have been declared. They are no more than 40,000. Just wait and watch for the results. I am winning,” were his parting words.

Within hours after it became clear...
Uncertain alliances

AT the end of a six-week-long nasty and extremely personal campaign, there is a clear winner in incumbent President Mahinda Rajapaksa. Now he will be able to preside over the proceedings of the general elections scheduled for April and also the elections in 2015. The current Constitution bestows enormous powers on the President. For instance, the President has the power to dissolve Parliament a year after it comes into existence without assigning any reason for doing so.

The 225-member Sri Lankan Parliament is constituted by the system of proportional representation, which is based on the percentage of votes polled by individual parties, and direct election. So, all the major parties are assured of a relatively decent presence in the next Parliament.

The opposition combine, which has parties with conflicting views on certain fundamental issues facing the island nation, is likely to split during the parliamentary election. All the major parties are assured of a relatively decent presence in the next Parliament.

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Many key portfolios – such as Foreign Affairs, Tourism, Foreign Investment and Power – in the Rajapaksa government are held by those who defected from the main opposition party, the United National Party (UNP). It was actually a herculean task for the President to accommodate them in the government without antagonising members of his own party, the Sri Lanka Freedom Party (SLFP).

Although cases are pending against the defectors in the Supreme Court, the anti-defection laws in the existing Constitution are so weak that they make little difference to their status.

The opposition, which had come together and put up Fonseka as its consensus candidate for the presidential election, has no common approach to some of the key issues, including the resolution of the ethnic problem and vital economic issues plaguing the nation. For instance, the UNP advocates liberalisation of the economy but the ultra-nationalist Janatha Vimukthi Peramuna (JVP) is against it.

The JVP has already gone on record that it will go it alone in the general election. The pro-LTTE Tamil National Alliance (TNA) is in disarray and has not made clear the position it will take.

The combinations that will emerge in the run-up to the elections remain unclear. Whatever be the case, President Rajapaksa has nothing to worry.

Ironically, the least-favoured scenario for the President would be a two-thirds majority for the ruling combine in the next Parliament. In such an eventuality, there will be pressure on him to push through the constitutional amendments necessary to find a solution to the nearly three-decades-old ethnic conflict and redress the real and perceived grievances of minorities in general and Tamils in particular.

B. Muralidhar Reddy

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<th>Composition of Parliament after the 2004 elections</th>
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<td><strong>Political party/Independent group</strong></td>
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<td>United People’s Freedom Alliance</td>
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that Rajapaksa was headed for a thumping victory, hordes of reporters from the electronic and print media descended on the hotel premises for an audience with the general. Surfacing only after keeping them waiting for hours, he insisted that he was the choice of the people of Sri Lanka and that Rajapaksa had “stolen the verdict”.

The military surrounded the hotel with hundreds of heavily armed troops and police and checked everyone entering or leaving it. But there was no restriction on the entry or exit of people, and throughout the day the hotel had international and national media personnel seeking an audience with the general.

Rajapaksa, in his first informal interaction with the media outside the Election Commission office on the evening of January 27, dismissed the opposition’s claims as ridiculous. “What is the problem of the general? If he has any issues relating to his security, he can always contact me directly. After all, he was my former Army chief,” he told *Frontline*.

The general soon moved to a “safe
house” in one of the posh localities of the national capital. For the next 48 hours, the house became the hub of opposition parleys.

Addressing a news conference there, Fonseka claimed that the Department of Immigration and Emigration had been instructed to prevent him, his son-in-law Danuna Tillekeratne and several other people from leaving the country. He argued that there was a move to assassinate him and that the security accorded to him had been reduced from 90 soldiers to one police inspector and three constables. He said there were no democratic rights in the country: “You can’t go to the police or the courts. You can be arrested at any time. There’s no media freedom.”

Fonseka warned that if he were killed the government’s “secrets would be exposed through an affidavit prepared by him, which would be made public on his death. There’s no media freedom.”

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told the BBC the charge was a fabricated one and that the weapons were planted by government supporters to harass the chief monk of the temple who had supported Fonseka. Reports say the monk is among those arrested.

The first official acknowledgement of the military purge came in the form of a brief statement from the MCNS. It said: “Officers who served as political party members during the presidential election, breaching military discipline will be sent on mandatory retirement.”

The MCNS claimed that there was confirmation that several military officers had been involved in the activities of political parties during and after the election. “Retaining the officers who had interfered in political activities during their service period will have a direct impact on the country’s security,” it said. A crackdown on the non-government media is continuing. On January 30, the police detained Chandana Sirimalwatta, editor of the Sinhalese newspaper Lanka Irida, reportedly to investigate his involvement in the “coup” attempt. The offices and printing press of the newspaper were sealed.

Some prominent journalists considered to be pro-Fonseka were also at the receiving end. The BBC reported: “It is now 10 days since a writer with an outspoken website, Prageeth Eknaligoda, disappeared, and there has been no indication of his whereabouts.”

Amid international criticism, the government on February 2 reversed its decision to expel Karin Wenger, the South Asia correspondent for the Swiss radio DRS. Karin Wenger said the decision to expel her was probably because she had been asking “inconvenient questions”.

All these developments do not augur well for the nearly 21 million people of the island nation. A 2006 study by the Mumbai-based think tank Strategic Foresight Group (SFG) reiterated that Sri Lanka was one of the most militarised societies in South Asia.

The study, titled the “Cost of conflict in Sri Lanka”, said the island nation had 8,000 military personnel per one million people. Even Pakistan – of which it is said that while every country has an army, the Pakistan Army has a country – has only half that number. The corresponding figures for other South Asian countries are: Nepal 2,700; India 1,300; and Bangladesh 1,000.

In terms of military expenditure as a percentage of gross domestic product (GDP) too, Sri Lanka spent the most – 4.1 per cent. For Pakistan it is 3.5 per cent, India and Nepal 2.5 per cent, and Bangladesh 1.5 per cent.

The SFG researchers say: “The possibility of it [Sri Lanka] becoming less militarised lies only after 2011, conditional on the resolution of internal conflict before 2006-07.” Hopefully, both the parties in power and those in the opposition will realise the dangers of needlessly dragging the military into politics.
For a successful revolution it is not enough that there is discontent. What is required is a profound and thorough conviction of the justice, necessity and importance of political and social rights.

Bharat Ratna Dr. B.R. Ambedkar

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