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Editor :
G. G. Parikh

Managing Editor : Guddi

D-15, Ganesh Prasad,
Naushir Bharucha Marg,
Mumbai - 400 007.

Email : janataweekly@gmail.com
Website: www.janataweekly.org

A Plea for Justice – Women Reservation

Rajindar Sachar

Sonia Gandhi has written to Prime Minister Modi to get the Women Reservation Bill passed in the parliament and is reported to have promised full support. This has led to war of words between Congress and BJP as to whose fault it is that this Bill has not been passed in spite of both parties professing their support for it. One is reminded of a picture in newspaper in March 2010 flashed in all newspapers where, one saw fiercest political opponents Sonia Gandhi and Sushma Swaraj in a happy embrace in the precincts of the Parliament. What was the occasion for this un-precedent spectacle and close bon homie.

Though introduced by former Prime Minister Deve Gowda for the first time on 12 September 1996 in the Lok Sabha, no concrete action was taken by various governments to effectuate the legislation on Women's Reservation Bill in Parliament and the state legislatures. Everyone expected the legislation to be passed immediately. In fact, Prime Minister I.K. Gujral promised his earliest priority in passing this Bill but nothing concrete happened.

When the UPA government came to power in 2004, it announced that the

Act would be its first priority. But instead one had total silence on the Bill in the President's speech on the opening day of the Parliamentary session. This was an open and clear notice to the women activists that the Bill, which had been so proudly projected as a commitment to gender equality, has been quietly buried, and is not likely to be revived in conceivable future.

Thereafter the Women Reservation Bill was referred to Parliamentary Standing Committee but nothing happened till 2010, when women reservation bill or the constitution (108th Amendment Bill 2008) which was proposed to amend the Constitution of India to reserve 33% of all seats in the Lower House of Parliament of India, the Lok Sabha, and in all State Legislative Assemblies for women.

The Rajya Sabha passed the Bill on 9 March 2010. It was this event that made Sushma Swaraj and Sonia Gandhi embrace each other so emotionally. However, the Lok Sabha never voted on the Bill. The Bill lapsed after the dissolution of the 15th Lok Sabha in 2014.

Every time from 1998 to 2014,

whenever Parliament met, women representatives were assured in all solemnity by each major political party that it hoped to pass the Bill in that very session. In reality, this was a tongue-in-cheek operation, because no further progress was made in the matter of women reservation.

The reality is that male chauvinism will never reserve seats for women because it will take away 1/3 of the present strength of parliament for women. I therefore feel that way out can only be by increasing the strength of Lok Sabha to 750 and making 1/3 of seats to double member constituencies with one seat therein to be reserved for women. Of course the women will be eligible to contest from other than reserved seats and may therefore increase their number beyond 1/3 of the total parliament seats.

Thus, Lok Sabha membership can be easily increased to 750, with a provision that one woman candidate will mandatorily be elected from those double-member constituencies, and, depending upon the votes received, it may be that even both elected candidate could be women. This law was laid down by the Supreme Court decades ago in former President V.V. Giri's case. The same principle will apply in the case of elections to the state legislatures.

Space in Parliament is not a problem. Shivraj Patil, once Union Home Minister, is on record in admitting that space is not a problem if Parliament decides to increase the number of seats.

The alternative of double member constituencies can be done by amending Article 81(2) of the Constitution by increasing the present strength, which can be easily done if political parties are genuine in their commitment to the Bill.

I know the Delimitation Commission has already marked the constituencies on the basis of single member seats. But I do not think it is necessary to redraw the constituencies to make it double.

By a rule of thumb the top one third of the constituencies having the maximum voters in each state could be declared double-member. If the legislators are sincerely genuine they could even submit an agreed list.

At present, of course, a fresh process has again to be initiated in Parliament, because the previous Reservation Bill lapsed with the dissolution of the previous Lok Sabha in 2014.

In the just finished election propaganda in Uttar Pradesh, not one party, including the so-called seculars, with the exception of the Socialist Party (India), included the item of reservation for women in their election manifestoes. Can such male chauvinism be allowed to exist in our country?

With the 2019 Parliamentary elections coming, is it not time for the women leadership in both the Congress and BJP, through Sonia Gandhi and Sushma Swaraj to jointly clench their fists and warn all the parties that they will no longer tolerate this injustice and neglect to continue? They may legitimately continue their differences on other subjects in the light of their own respective programmes.

Now that Sonia Gandhi has promised full support to the Bill, Modi who claims to stand for Swachh Bharat (which is a programme to enhance the dignity of the women in the country) cannot have any objection. His request to Mamata Banerjee and Mayawati should invoke immediate positive response from those leaders.

Any suggestion by opponents of the bill by creating hurdle by suggesting that women quota be further sub-divided by reserving proportionate number of seats for OBC and SC women separately is cheap trick to deny women a real share in power.

Let me point out that biggest supporter of Dalits and backward castes Dr. Lohia had opined that reservation for women was an instrument of social engineering – he could never have suggested splitting the strength of women's quota by further splitting them in sub quotas.

At present there are only 61 Women Members in Lok Sabha. The shame of discrimination against women can only be corrected by providing reservation for women's share in the legislatures – both in Parliament and State Assemblies.

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Are Refugees Outsiders?

Kuldip Nayar

Communist leader Jyoti Basu ruled West Bengal for two and a half decades. He fought relentlessly against the communal forces. It is surprising how the RSS has penetrated and practically taken over the state. Chief Minister Mamata Banerjee's Trinamool Congress is in power in the state at present but even her adherence admits that they are fighting a losing battle.

The RSS has moved into the interior of the state and its morning shakhas are being held in every park. How and why it has happened is for a case study. Communist ideology is what the Left pursued. In sharp contrast is the RSS preaching, completely archaic and conservative. The rich Bengali culture is today sandwiched between the RSS and communists.

Mamata is accused of trying to appease the Muslims when she vainly banned the immersion of Durga idols beyond certain hours. The state government, according to news reports, apprehended that both immersion processions and the Muharram processions will be taken out deliberately to cross each other's path, putting the contaminated administration to a stern test. However, the Calcutta High Court intervened to restore the status quo.

Perhaps, what prompted Mamata to order the ban was the steady string of communal riots that have been breaking out in the districts. Controversies over the routes of Muharram processions, too, had ignited the spark. In addition, the accusations by belligerent Hindu groups, comprising both Bengalis and

non-Bengalis, had sprung up to resist 'Bangladeshi infiltrators' and 'Islamic terrorists.'

All these added to the communal cauldron that was already boiling, thanks to a steady exodus of Hindus from Bangladesh in recent times. The upper caste Hindus, who were a part of Bangladesh before the country was liberated from West Pakistan, had migrated to India and even today they maintain two houses, one in Bengal and the other in Bangladesh. Their children study in Indian schools and have even acquired identity and become citizens of India in some cases.

However, the rising Islamic radicalism and the steady attacks on Hindus in Bangladesh have led to fresh exodus over a decade. Unable to find a living, the economically poor are mostly confined to the border districts, eking out a living through odd jobs. Understandably, the Bengalis harbour deep resentment of 'the other' Muslims. And these are the ones that RSS has targeted cleverly to pull on to its side.

Against this backdrop, the Bangladeshis are going through a peculiar problem of exodus of Rohingyas, a minority Muslim community, from Myanmar. Dhaka has provided shelter to these refugees on humanitarian ground but beyond a point it cannot help much. The number of Rohingya refugees who fled Myanmar to Bangladesh since late August has reached 480,000, challenging efforts to care for them, according to UN spokesman Stephane Dujarric.

"The Office for the Coordination of Humanitarian Affairs (OCHA) says

that the number of Rohingya refugees who have fled Myanmar into Bangladesh since late August has now topped 480,000," he said. "This brings the total number of Rohingya refugees in Bangladesh to more than 700,000. The Rohingyas are denied citizenship under a 1982 Myanmar citizenship law. The Myanmar government recognizes them as illegal immigrants from neighbouring Bangladesh.

The exodus of Rohingyas has also posed a problem to New Delhi since some of them have infiltrated into India through the northeastern states which are sharing a long border with Myanmar. Even as the government is trying to prove to the court their association with Pakistani terrorist groups, BJP MP Varun Gandhi has advocated asylum for Rohingya Muslims who have escaped the violence in Myanmar. This is a view that is in contrast to what the government has advocated. In a recent *editorial in The Navbharat Times*, Varun has expressed that Rohingya refugees should not be deported but treated humanely.

No doubt, it has created a stir in political circles, particularly with Minister of State for Home Affairs, Hansraj Ahir, saying that Varun Gandhi's view was against India's interest. "Anyone who cares about national interest will never give such a statement," said Ahir.

The government recently told the Supreme Court that it will give evidence to the court. According to the government, some Rohingya militants are linked with Pakistan-based terrorist groups. The centre has said it will deport

Abject Failure of a Vice Chancellor

Sandeep Pandey

all 40,000 Rohingyas who are illegal immigrants. The move has been challenged in court by two Rohingya petitioners who said that their community is peace-loving and that most of them have no link to any terror activity.

New Delhi has to face the refugee problem stoically. There are Kashmiri pundits in Jammu and Bangladeshi Muslims in Kolkata and Guwahati. So is the case with Sri Lankan Tamils who have taken asylum in Tamil Nadu. Small skirmishes are already taking place and pose a serious problem. But the Rohingyas exodus has forced the government to revisit the issue of refugees, giving a political colour to a human issue.

What is disconcerting is that the problem is slowly getting a communal colour—Hindu versus Muslim. West Bengal, which is already sitting on a volcano, has to retrieve the situation which may get out of control. In fact, the secular and democratic forces would have to join hands to fight against the onslaught of Hindutva elements.

Sadly, one has to admit that the country is going towards a philosophy which has been fought by Mahatma Gandhi, Jawaharlal Nehru and Maulana Abul Kalam Azad. Our heritage is pluralism and its essence has to be kept alive. This is not a one-party task. All like-minded and non-BJP forces have to come together to fight against the creeping communal forces.

With the Hindu extremists getting an upper hand in every sphere, it is an uphill task. But there is no option either. If we want communalism to be rolled back to restore the ethos of pluralism, the secular forces have to go to the grassroots. The communists are giving the impression as if they alone are putting up a fight. The Congress is also doing so relentlessly, however irrelevant it looks in the present scenario.

Professor Girish Chandra Tripathi, according to his own admission, became the Vice Chancellor of nationally important Banares Hindu University because of his service to the Rashtriya Swayamsewak Sangh, the ideological parent of the ruling dispensation of Bhartiya Janaata Party in India. He is not particularly known for his academic credentials. In a question asked to the Allahabad University under the Right to Information Act, the Department of Economics, where he used to teach before coming to BHU, says that no records are available about Tripathi's research activities, papers published or students who carried out research under his guidance.

So, it came as no surprise that he restricted the hours of a 24 hours cyber library started on campus by his predecessor, as he believed that students use the facility to watch pornography. His further decisions shocked even the most conservative of citizens. Girls' hostel gates were to shut at 6 pm, they were not to use mobile phones after 8 pm, they would not be served non-vegetarian food in mess and worse, would be required to sign a statement declaring that they'll not participate in any protest against the university. The VC justified these rules saying they would make them 'cultured.' It is noteworthy that male students were not subjected to any of these restrictions. This has allowed breeding of a culture on campus which has become oppressive for the girls. On the other hand indulging in misdemeanour by truant men is ignored or incidents are covered up. It is unclear what kind of 'culture' the VC wants to

promote? One thing is clear - the overbearing presence of Akhil Bhartiya Vidyarthi Parishad, the student wing of RSS and its ever growing shakhas have failed to make it a safer campus for girls and women.

In spite of iron clad system for security of girls a Bachelor of Fine Arts student was sexually harassed by motorcycle borne youth on campus on the evening around 6 pm on 21 September. Security guard posted near the site of incident did not come forward to help and Proctor and Dean shamed the student by admonishing her for being out so late. The attitude of authorities provoked a backlash and the next day hundreds if not thousand female students were protesting at the main gate defying the statement all of them had signed for keeping away from such an activity.

The Prime Minister Narendra Modi, was visiting his constituency of Varanasi, home to this University, when the protests broke out. Within hours of his departure on 23 September there was a crackdown by male police on female students, which is illegal, in the dark hours close to midnight. Number of students received bruises, some even had to be admitted to Trauma centre of the University hospital.

A mockery was made of the right to free speech and dissent, guaranteed by the country's Constitution. The arrogant administration tried to browbeat the students. Professor Tripathi's instinctive RSS values tell him to use brute force to suppress any opposition. He doesn't believe in niceties like dialogue. To his RSS trained mind dialogue will signal

weakness and disciplining the students by punishing them strength. The haughty power has blinded him.

University authorities blamed the 'outsiders, mischief makers, propagandists and anti-national' elements for instigating the protests. Obviously they were more worried about the outsiders and miscreants who infiltrated the protests than the ones who were responsible for sexual harassment on campus. For them the protests defamed the University more than any molestation. The initial reaction was to cover up the molestation attempt.

There were further lathi charges on protesting students twice on 24 September during the day on campus. The students have been asked to proceed on an early Dussehra holiday and vacate their hostels. What can be more irresponsible act by the University administration than this? The girl students who are not feeling safe on campus are being evicted from the safe environment of their hostels and without any travel bookings being asked to leave for home.

Tripathi who first prayed to Lord Vishwanath in the famous Vishwanath temple in city and then in a temple by the same name on campus, before taking over as VC three years back now must realize that running a university is more difficult than running a teachers' union or a RSS shakha. But it doesn't look like that Lord Vishwanath is going to stand by him for very long. It should dawn upon him that his days are numbered. This anti-academic, regressive, arrogant person has vitiated the atmosphere of BHU and the University needs to be saved from its own VC. Even to begin with he was an inappropriate choice to head such a prestigious university. He was further thrust upon the Indian

Institute of Technology on campus as its Chariman, Board of Governors even though his name was not among the panel of five recommended by the Board to the then Minister for Human Resources Development Smriti Irani. Tripathi has used his association with

RSS to occupy high offices for which he is not competent enough.

But the BJP is not known for admitting mistakes. The students will have to make the government realise it and force the exit of Tripathi.

Unacceptable Demand of Dogras of Jammu

The demand of the Dogras of Jammu to declare the birthday of the late Maharaja Hari Singh as a State holiday for the whole of J&K state is absolutely unjustified in view of the fact that this particular gentleman was not at all popular in Kashmir valley and presumably in Ladakh region as well. He might be popular among a section of Dogras on the basis of caste identity, but we cannot forget the fact that he was against the freedom movement, arrested Pandit Jawaharlal Nehru in 1945-46, was inimical to the New Kashmir movement led by the popular and tall leader Sheikh Abdullah and dithering in the matter of accession to the Union of India until the circumstances compelled him to sign the instrument of accession.

The objective of a section of the Dogras to achieve abrogation of Article 370 of the Constitution is not achievable in the present circumstances in any case. They acted foolishly by voting for the BJP in the last General Election if they hoped that the Parliament of India would delete Article 370 on the basis of a majority in the Lok Sabha. Even Home Minister Rajnath Singh, after meeting the PDP Chief Minister of J&K, had to announce that there was no question of abrogating Article 370. Grabbing power and retaining power are two different things. The floodgates cannot be opened for the benefits of money bags from outside the State who would be too willing to buy the lands and orchards of the Muslims of Kashmir valley at any price.

The capitalist class of India has already usurped the lands and other natural resources of the tribals in several parts of Middle India throwing all the Constitutional and legal provisions to the winds in collusion with the political powers of the day. The Sardar Sarovar Project, actually intended to benefit the landed class of Gujarat, specially Saurashtra, is a standing monument to the exploitation of the poor Adivasis of Madhya Pradesh and Maharashtra. The one significant defeat these capitalist forces, patronised by the political rulers at the Centre, had to face was in the Niyamgiri forests of Odisha where the valiant Dongria Kondhs carried on a sustained and successful struggle against the steel magnate and his political patrons. The brave people of Kashmir valley will never permit these outside exploitative elements to succeed in their nefarious game.

India's Quest for Security Council Permanent Membership

D. K. Giri

India made yet another bid for becoming a permanent member of United Nations Security Council. Sushma Swaraj, our External Affairs Minister, in her speech at the 72nd UN General Assembly Session in New York taking place from 12 to 29 September reinforced New Delhi's initiative in revamping the premier world body. Her plea for securing the membership of UNSC followed our Prime Minister Modi's diplomatic forays into major countries of the world including the mighty United States, lobbying for India's membership.

It may be recalled that, in 1955, India was offered the membership of the UNSC by the US and others to come in from the Asian region. Our then Prime Minister, Jawaharlal Nehru declined it and suggested that it should be reserved for China which was then under dictatorship of Chiang Kai-shek. India was preferred to China as the former was a democracy. Ever since, as we lost the opportunity, India has been courting Russia, an original permanent member of the Council for its veto on Kashmir whenever UNSC threatened to pass any resolution indicting India. India's foreign policy has been largely influenced by Soviet veto in India's favour on Kashmir. However, that is history.

In the current scenario, United Nations, the highest body of the world clearly lacks legitimacy as UNSC remains under-represented. Jeffery Sachs of Columbia University, a leading expert and commentator of world politics, says "Asia's inadequate representation poses a serious threat to the UN's legitimacy, which will only

increase as the world's most populous region assumes an increasingly important global role." He suggests that one possible way to resolve the problem should be to add at least 4 Asian seats: one permanent seat for India, one shared by Japan and Korea, perhaps on a basis of two-year or one-year rotation, one for the ASEAN countries, representing the group as a single constituency and fourth rotating among other Asian countries.

Over a decade ago, on 21 March 2005, Kofi Annan, Secretary General of the UN at the time, called on the members of the United Nations to reach a consensus on expanding the Security Council to 24 members. He had devised a plan for expansion of the Council called "In Larger Freedom". Sushma Swaraj implored in her speech that the current SG, Antonio Guterres, the former Prime Minister of Portugal, should make it happen. She said in her speech that "we have high expectations from the new Secretary General. If he wants to reform the peace and security architecture in the world, he will also need to address reforms related to peace keeping that have been urged for long." The reform of the UN requires the support of two-thirds of its 193 members. From the records of the formal speeches made at the UN sessions, 160 members have expressed their concurrence for the long-pending reforms of the United Nations.

For long, India has been advocating for reforming the UN. On the fringe of the UN General Assembly, the G-4 countries – India, Brazil, Germany and Japan – met to push for the change in UN Security Council by expanding the

number of both permanent and non-permanent members. There was support for restructuring of UN in general and for permanent membership of India in particular. Sushma Swaraj reminded the General Assembly that "there was a consensus in 2005 Summit that the early reform of the Security Council was an essential element for peace and security in the turbulent world".

Let us look the arguments in favour of India's permanent membership of the UN Security Council. To start with, India has been a founding member of the UN, although the permanent membership has been elusive, since Nehru denied the offer for some inexplicit reasons. However, the arguments in support are many. To cite a few, India is the second most populous country with 1.3 billion, and is likely to overtake China to become the number one in population. So it is incongruous that the biggest country in terms of population, one-sixth of the world humanity remains unrepresented in the highest body of the world. Second, it is the largest democracy in the world. One of the missions of the UN is to foster democracy in the world, and India has remained a beacon light for countries in the whole of Asia as an unflinching democracy. Third, India has been a non-permanent member of the UNSC for six terms spanning 12 years. It is time that it becomes a permanent member. Fourth, India is the 7th largest economy in the world. Indian economy is growing steadily with minor hiccups. It is expected to contribute to the world trade and economy as in 20 years' time or so; it is expected to overtake the Chinese economy. Fourth, India is

already the member of the groups of rich countries like G-4 and G-77 which produce goods and services for the entire world. Fifth, India has the 3rd largest army in the world and has contributed so far 160,000 soldiers to the UN peace keeping forces to difficult conflict areas. Indian soldiers have laid their lives for the freedom and security of the countries under domination or in war.

No doubt, the membership of the UN Security Council will not be easy to come by. Although New Delhi is doing diplomatically well to push our case with the so-called warmth, rapport and charisma of the Prime Minister, Narendra Modi, the efforts have to be taken to the logical end. One can count a few road-blocks in India's membership journey. The UNSC membership has to expand from 15 to 24, in order to accommodate Asia, Africa and Latin America. Also, all the 5 permanent members have to agree to the expansion. The United States and the United Kingdom have openly endorsed India's bid. France has also committed its support. Russia will not oppose it, given our long-standing friendship with it. China makes occasional sounds in support of India's membership, but is non-committal. For instance, when Xi Jinping visited India in 2014, he said in a press conference that China supports India's membership of the UNSC. It could have been rhetorical and a diplomatic statement, as China has been unremittingly displaying anti-India posturing. India's growing partnership with Japan will further alienate China.

New Delhi has to initiate a different method of expanding the UN with the help of its friends. Narendra Modi has been rubbing shoulders with the rest of the 4 permanent members and other important countries like Japan and Germany. Can he pull a rabbit out his

hat and secure the membership of UNSC for India before he goes to the polls in coming 18 months? Looks unlikely, as with many of his initiatives, he has impressive beginnings with his persuasive slogans and one-liner policy formulations etc., but the ends are yet to be seen. The effectiveness as well as legitimacy of the foreign policy of a country is a function of the conditions at home of the particular country. Indira Gandhi was seen as a strong leader outside India, but her performance at home in development of the vast majority of people was dismal. One sees a parallel in Narendra Modi, although his Prime Ministerial stint is too short to compare. Indira gave the famous slogan *Garibi Hatao* (Remove Poverty), and "poverty is the worst polluter" in UNEP (United Nations Environment Programme) conference at Stockholm in 1972, she could not make any tangible dent in India's widespread and chronic poverty. About 4

decades later, we have another Prime Minister who gives himself the epithet of Vikas Purush 'a person for progress', but the development on the ground is not visible. So, in order to become a world leader, by being a member of UNSC, Modi needs to make India better and more vibrant development-wise. Then the membership will come to us; without much lobbying, as others would like to emulate India's democracy, diversity and economy etc.

Finally, it is typical of India's foreign policy establishment from Nehru era onward to drag issues until they fizzle out naturally. I have been commending Modi for 'breaking the mould in India's foreign policy without rocking the boat'. But the real and the toughest test would be the UNSC membership. Will he succeed? We would like to think so in the national interest of India, and especially if he displays grit and integrity in policies at home.

Gandhi's Message to Our Troubled World

Bharat Dogra

In a world increasingly plagued by violence and strife Mahatma Gandhi's message remains highly relevant today, 69 years after the assassination of this man of peace.

Gandhi's work and writings covered a very wide range of activities, but perhaps what our troubled world needs to learn most from Gandhi is his overwhelming emphasis on non-violence to resolve any conflict or to confront any injustice. More than that, he emphasised non-violence as an entire way of life, emphasising its importance in our daily life (even relationships within family) as much as in huge movements for justice and freedom. Non-violence (ahimsa) for Gandhi is all-encompassing, bringing in

its range not only all human beings but also all forms of life. Non-violence in action is considered far from adequate - it should extend to our innermost thoughts.

Gandhi's concept of non-violence is so pervasive that it will not only help the cause of world peace - rightly practised it'll help to significantly bring down the incidence of domestic violence and mental illness as well. The movement for animal rights or compassion to animals will also benefit from a wider spread of Gandhi's ideas.

About the role of non-violence in his own life, Gandhi wrote "I have been practising with scientific precision non-violence and its possibilities for an

unbroken period of over fifty years. I have applied it in every walk of life, domestic, institutional, economic and political. I know of no single case in which it has failed. Where it has seemed sometimes to have failed, I have ascribed it to my imperfections. (*Harijan*, 6-7-40, pp. 185-86)

Gandhi had big hopes from harnessing the tremendous force of non-violence. He wrote, (*Harijan* 10.12.38 p. 377) “more powerful than all the armaments, non-violence is a unique force that has come into the world”. Elsewhere he said “We are constantly being astonished these days at the amazing discoveries in the field of violence. But I maintain that far more undreamt of and seemingly impossible discoveries will be made in the field of non-violence. (*Harijan*, 25.8-40, p. 260)

The path of non-violence is noble, but it is not easy. As Gandhi says (*Harijan* 14.5.38) “If the method of violence takes plenty of training, the method of non-violence takes even more training and that training is much more difficult than the training for violence. “A votary of Ahimsa has to be incorruptible, fair and square in his dealings, truthful, straightforward and utterly selfless. He must have also true humility. (*Harijan*, 20.5.39, p. 133)

“The very first step in non-violence is that we cultivate in our daily life, as between ourselves, truthfulness, humility, tolerance, loving kindness. Honesty, they say in English, is the best policy. But in terms of non-violence, it is not mere policy. Policies may and do change. Non-violence is an unchangeable creed. It has to be pursued in face of violence raging around you. (*Harijan*, 2.4.38, p. 65)

“Non-violence, to be a potent force,

must begin with the mind. (*Young India*, 2-4-31, p. 58)

“...unless there is a hearty co-operation of the mind the mere outward observance will be simply a mask, harmful both to the man himself and to others. The perfect state is reached only when mind and body and speech are in proper co-ordination. (*Young India*, 1.10.31, p. 287)

“The alphabet of Ahimsa is best learnt in the domestic school, and I can say from experience that, if we secure success there, we are sure to do so everywhere else.” (*Harijan* 21.7.40, p. 214)

“If one does not practice non-violence in one’s personal relations with others and hopes to use it in bigger affairs, one is vastly mistaken. Non-violence, like charity, must begin at home. (*Harijan*, 28-1-39, p. 441)

Gandhi captured the spirit of non-violent struggle in the following words - “I seek entirely to blunt the edge of the tyrant’s sword, not by putting up against it a sharper edged weapon, but by disappointing his expectation that I would be offering physical resistance. The resistance of the soul that I should offer instead would elude him. It would at first dazzle him and at last compel recognition from him, which recognition would not humiliate him but would uplift him.”

For Gandhi religion was clearly a place for peace and there was absolutely no room in his thinking for religious differences turning violent. He wrote, “I believe in the fundamental truth of all great religions of the world. I believe that they are all God given, and I believe that they were necessary for the people to whom these religions were revealed. And I believe that, if only we could all of us read the scriptures

of different faiths from the standpoint of the followers of those faiths we should find that they were at bottom all one and were all helpful to one another.” (*Harijan* 16.2.34 P.5-6)

Gandhi saw clearly that the aggressiveness of the great powers is rooted in greed. He said world peace “is clearly impossible without the great powers of the earth renouncing their imperialistic designs. This again seems impossible without these great nations ceasing to believe in soul-destroying competition and to desire to multiply wants and therefore increase their material possessions. (*Harijan* 16.5.36 P.109)

The ideal he urged to his own countrymen was “we will exploit none just as we will allow none to exploit us.” (*Young India* 16.4.31 page-9). He added “I should reject that patriotism which sought to mount upon the distress or the exploitation of other nationalities.”

In fact Gandhi was an internationalist much ahead of his times. He wrote, “The better mind of the world desires today not absolutely independent States warring one against another, but a federation of friendly inter-dependent States. (*Young India*, 26-12-24, p. 425)

“The structure of a world federation can be raised only on foundation of non-violence, and violence will have to be totally given up in world affairs. (Gandhiji’s Correspondence with the Government - 1942-44, (1957), p. 143)

“Federation is undoubtedly a greater and nobler end for free nations. It is a greater and nobler end for them to strive to promote Federation than be

(Continued on Page 10)

With Prices Rising Post-GST, has the Government taken the Public for a Ride?

Arun Kumar

Have prices of goods and services risen because the implementation of the Goods and Services Tax (GST) is faulty or because it was not designed properly? Eighteen percent GST is levied on the food in a restaurant. This has raised the cost of eating out. Is this what was intended in the original design of the GST? One of the benefits of the GST touted by the government was that prices would come down, but the opposite has happened. Prices of most services have also gone up as they are now taxed at 18% while they were charged 15% in the pre-GST regime. Hence, insurance, credit card charges, banking charges and so on have all risen.

Unfortunately, the wholesale price index (WPI) does not capture much of this price rise since services are not a part of this index and constitute 60% of the production in the economy. Consequently, the rise in prices of services is not reflected in the inflation index based on WPI. Since it is the prices of services that have risen the most in the last several years, inflation is being grossly underestimated. Why have the prices of services risen? Because the government has increased the tax on services from 12% to 15% and now to 18%. It is well known that when an indirect tax is raised on any good or service, it is passed on to the consumer by the producer.

Why were prices expected to come down under the GST?

The GST is supposed to eliminate the cascading effect of taxes. Cascading effect signifies the levy of a tax on a tax

so that the effective rate of tax becomes higher than the rate of tax levied. For example, in a restaurant, the inputs bought contain an element of tax paid on them so their price is higher by the amount of this tax. When food is prepared and the final bill is given to the customer, the price in the bill contains the tax paid on the inputs. So when a tax is levied on this price, a tax is levied on the tax already paid on the inputs. This is the cascading effect of tax on tax.

Under the GST, there is an input credit for the tax paid on the inputs so that the price of the purchased goods and services declines and therefore, the price of the final product should be lower and the GST should be levied on that lower price. The restaurants are not doing that and therefore, they benefit twice over. They are getting the input credit which adds to their profit and are also charging the customers a higher price.

The list price of food items in the menu of a restaurant should have been lowered to reflect input credit and on that lower price, 18% GST should have been levied. Alternatively, if the list price is not changed then the GST rate in the bill should have been lowered in proportion to the purchased inputs.

If a restaurant buys Rs 500 worth of inputs to produce a dish selling at Rs 1,000, then the total GST collection ought to be Rs 180. But the restaurant is getting Rs 90 as input credit and collecting Rs 180 from the customers. However, they have to pay the government only Rs 180. Hence, their

profit rises by Rs 90. Ideally, the restaurant should only collect Rs 90 from the customers (9%) and pay the government Rs 180 because they got the benefit of Rs 90 from the input credit.

Alternatively, if the input credit is accounted for in the cost of producing the dish, the cost should be Rs 410 and not Rs 500. With the same mark up as earlier, the list price of the dish should be Rs 820. On that, the GST of 18% would amount to Rs 148. So the final price to the customer should be Rs 968 and not Rs 1180, as is now happening. In brief, if the input credit works properly, prices should drop but the public is being taken for a ride.

However, the flaw in the design of the GST is that the input credit is available only if the invoices of the buyer and the seller match. How many suppliers can the restaurant owner chase? Switching to alternate suppliers would be costly. Supply chains are not easily built. So the restaurants are not reducing the list prices because they are not sure of getting the input credit.

What is happening in restaurants is happening across the board in most businesses. Input credit should lead to lower cost to business and so, it should reduce the basic price on which the GST is to be levied. Consequently, the prices of various items should remain the same as they were earlier and not rise, as has happened all across the board.

It is true that India has not gone for a full GST. Important items like,

petroleum products, electricity, real estate and alcohol are out of the purview of GST. These are key inputs into production and there is no input credit for their use. They are also heavily taxed items so there is a strong cascading effect associated with them. But that was also the case earlier, so this cannot be the cause of additional inflation.

Various essential goods, constituting 50% of all items, are out of the GST net so that their prices should not rise. This should especially benefit the common person whose consumption basket mostly consists of these items. For instance, rice, milk, eggs, salt, handloom etc are charged at zero rate of tax.

However, indirect taxes are deceptive. The point at which a tax is levied and where it is felt are different. Hence, while milk has a zero rate of tax, it has to be transported and stored, and accounts have to be kept. All these services are included in the GST and as their prices go up, the cost of milk also rises. Thus, when GST is levied on trucks, increase in its price is felt in the price of milk even though it has zero tax. In brief, the effect of GST is felt even on those items which have zero tax and inflation is experienced even by the common person who consumes very little of the taxed items.

How were the rates fixed?

First, the government determined a revenue neutral rate (RNR) of tax – that is, the average rate of tax at which the same amount of tax would be collected as in pre-GST times. Two different committees suggested 12% and 15.5%. The government has chosen the latter. It is too high because alternative calculations suggest that the rate could have been lower at about 8% since the GST net has been widened.

The next step is to fit each item close to the tax rate it was paying earlier (called fitment). So, if an item was being taxed earlier at 15% (all taxes taken together), it was fitted either at 18% or 12% – the two allowed rates. In the former case, its price would rise, while in the latter case, its price would fall. To keep inflation from rising, the government should have chosen the lower rates except in the case of sin or luxury goods.

The implication of the arguments given above is that cascading effect is back in spite of the GST and Value Added Tax (VAT). Since input credit is not being accounted for by businesses, the tax is not collected as VAT but as ‘ad valorem’, which was the reason for the cascading effect. This has raised the profitability of businesses

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self-centred, seeking only to preserve their own freedom. (*Harijan*, 9-8-42, p. 265)

Speaking optimistically of his vision of a future world he wrote, “The world of tomorrow will be, must be, a society based on non-violence. That is the first law: out of it all other blessings will flow.

“...An individual can adopt the way of life of the future - the non-violent way - without having to wait for others to do so. And if an individual can do it, cannot whole groups of individuals? Whole nations? Men often hesitate to make a beginning, because they feel that the objective cannot be achieved in its entirety. This attitude of mind is precisely our greatest obstacle to progress - an obstacle that each man, if he only wills it, can clear away.

“...Equal distribution - the second great law of tomorrow’s world as I see it - grows out of non-violence. It implies

while demand has fallen due to the price rise. Production has faced a setback, especially in the small and cottage sectors because of the difficulty of implementation of the GST.

The public needs to pressurise restaurants and other businesses to lower the list price on which GST is levied in their bills. But is it in a position to do that? The government has to do that but it is too caught up in the implementation glitches to think of anything else. All this shows that the GST is awfully complex and has confused not only businesses and the public, but also the government. One can conclude that both the design and implementation of the GST are below par.

–*The Wire*

not that the world’s goods shall be arbitrarily divided up, but that each man shall have the wherewithal to supply his natural needs, no more. (*The Mind of Mahatma Gandhi*, PP 458-60).

“...only truthful, non-violent and pure hearted socialists will be able to establish a socialistic society in India and the world. To my knowledge there is no country in the world which is purely socialistic. Without the means described above, the existence of such a society is impossible. (*Harijan*, 13.7.47, p. 232).

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Banning of Nuclear Weapons

Siby K. Joseph

The 20th September 2017, will be ever remembered in the history of human civilization, because more than 50 countries have signed the landmark treaty on the Prohibition of Nuclear Weapons in New York on the eve of annual opening of the United Nations General Assembly.

In the high-level ceremony at the United Nations headquarters, the document was first signed by President of Brazil, Michel Temer. The ceremony was attended by several heads of state and dozens of foreign ministers, including Austria, Ireland and Cuba.

It is significant that this historic treaty was signed 72 years after the Hiroshima and Nagasaki bombings during the Second World War. The bomb dropped at the Hiroshima was nicknamed as Little Boy. According to one estimate, it killed 1,30,000 people. On the 9th August the US dropped a second one called Fat Man on Nagasaki killing 70,000 people. It is reported that 200,000 still suffer discrimination due to ignorance about the ill effects of radiation.

On 6th August 2017 more than 50,000 people, including survivors of the atomic bomb attack, their descendants, peace activists and representatives from about 80 countries, assembled at the Peace Memorial Park in the city of Hiroshima to commemorate 72nd anniversary of the atomic bombing in 1945 during World War II. On the Hiroshima day, International Campaign to Abolish Nuclear Weapons urged all nations to commit to signing the Nuclear Weapons Ban Treaty.

Everyone in the world is aware of the widespread and catastrophic consequences of nuclear weapons. Nuclear weapons were the only weapons of mass destruction without a prohibition treaty. Biological weapons were banned in 1972, chemical weapons in 1993, Land mines in 1997, and cluster bombs in 2008. With the adoption of this treaty, nuclear weapons also join the club of biological and chemical weapons as weapons of mass destruction that have been declared illegal under the international law. The Treaty will be coming into force 90 days after it is being signed and ratified by 50 countries.

On 7 July 2017, 122 nations, comprising almost two-thirds of the total UN membership voted to adopt the Treaty on the Prohibition of Nuclear Weapons. It is a landmark agreement that outlaws the weapons of mass destruction and establishes a pathway to their elimination. The Netherlands was the only country voted against its adoption. It claimed that US nuclear weapons are essential for its security.

Once the treaty has entered into force, further nations can join it at any stage. It is to be noted that even if a nation that possesses nuclear weapons, it can join the treaty, so long as it agrees to remove them from operational status immediately and destroy them in accordance with a legally binding, time-bound plan. In addition, it is also required to eliminate its entire nuclear weapon programme, which includes nuclear materials, delivery systems and related facilities.

Then the question arises how to resolve a dispute if it happens between two or more nations under the treaty? To resolve the issue they must consult together with a view to settling the dispute by negotiation or by other peaceful means.

Nuclear Arsenal possessed by the Countries

Country	Size of Arsenal
United States	6,800 warheads
Russia	7,000 warheads
United Kingdom	215 warheads
France	300 warheads
China	270 warheads
India	110-20 warheads
Pakistan	120-30 warheads
Israel	80 warheads
North Korea	<10 warheads

Source: Federation of American Scientists 2017

Major chunk of nuclear warheads are in the hands of nine countries viz. U.S., Russia, the U.K., France, China, India, Pakistan, Israel and North Korea. These countries neither participated in the process nor adopted the convention. The United States and Russia are the major players, which possesses approximately 6,800 and 7,000 nuclear warheads respectively. The US made it clear that it never intends to join the treaty and thereby failed to fulfill its legally binding disarmament obligations under the Non-Proliferation Treaty. In a joint statement issued immediately after the adoption of the treaty, the U.S., France and the U.K. expressed their strong opposition to

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Gandhi on Princely and Temple Property

K. Venkateswarlu

The nation was awestruck at the vast precious wealth brought to light (by the order of Supreme Court) from the five sub-terranean vaults of Sri Padmanabha Swamy Temple, Tiruvananthapuram. Apropos the subsequent public discourse relating to proprietary rights, protection and preservation, value and utilization of the wealth, the following anecdote may be of interest and a guide to action.

Late Professor Debi Prasad Chattopadhyaya, re-knowned Marxist philosopher and a “thought transformer” of modern India (Walter Ruben), was visiting Professor in the Department of Philosophy, Andhra University, during the academic year 1977-78. We were drawn together due to shared interest in the study of Marxism and the dialectics of its theory and practice in the colonial as well as independent India. We used to meet frequently and engage in long and stimulating conversation. In one of his impromptu dialogues, he referred to a bunch of letters exchanged between M.K. Gandhi and Jawaharlal Nehru in the latter half of 1947, which did not become a part of the public archive. The central issue of this correspondence is of great interest and importance to us even today. It seems, Nehru sought and appealed for foreign aid to help the new nation. Gandhi sharply asked, why do we need foreign aid? Nehru’s response was simple. We are poor and do not have resources to modernize our economy and reduce the poverty of people. Gandhi interrogated Nehru regarding the volume, form and value of the wealth held in the possession of Maharajas and Zamindars, and

temples, mosques, churches, Mandirs and trusts in our country. He suggested to tap this vast hidden and unproductive wealth and use it for national development. DP said this correspondence between Gandhi and Nehru did not see the light of the day as it dealt with very sensitive political and cultural issues. He concluded that Professor Amalan Datta, Director of Gandhi Centre, and Vice-Chancellor of Viswabharati University, and a very small circle of academics in West Bengal were knowledgeable in respect of the location and contents of the letters. I will comment on the veracity of DP’s dialogue a little later.

The objective of this note is two-fold. First, it gives an account of the ideas of Gandhi relating to the property of temples and religious institutions and bodies, and of Maharajas and Zamindars. Second, the ideas and ideals of Gandhi may provide a lead to the current public discourse regarding the wealth found at Sri Padmanabha Swamy Temple, and also of the enormous wealth which is in possession of famous religious institutions and the former princely rulers of India.

Gandhi delivered a speech on February 6, 1916, at a meeting presided over by Annie Besant in the Benares Hindu University. It was a festive gathering of the students, faculty and princely rulers, who were benefactors of the University, and top bureaucrats of the Raj. Gandhi said: “I want to think audibly this evening..... I entirely agree with the President of the Congress that before we think of self-government, we shall have to do

the necessary plodding. I have turned the search light all over and as you have given me the privilege of speaking to you, I am laying my heart bare. Surely we must set these things right in our progress towards self-government. I now introduce to you another scene. His Highness the Maharajah, who presided yesterday over deliberations, spoke about the poverty of India. Other speakers laid great stress upon it. But what did we witness in the great pandal in which the foundation ceremony was performed by the Viceroy? Certainly a most gorgeous show, an exhibition of jewellery which made a splendid feast for the eyes of the greatest jeweller who chose to come from Paris. I compare with the richly bedecked noblemen the millions of poor. And I feel like saying to these noblemen : ‘There is no salvation for India unless you strip yourselves of this jewellery and hold it in trust for your countrymen in India’. (“Hear, hear” and applause). Sir, whenever I hear of a great palace rising in any great city of India, be it in British India or be it in India which is ruled by our great chiefs, I become jealous at once and I say : “Oh, it is the money that has come from the agriculturists”.

Earlier, in the same speech, he said: “I visited the Viswanath temple last evening and as I was walking through those lanes, these were the thoughts that touched me. ... I speak feelingly as a Hindu. Is it right that the lanes of our sacred temple should be as dirty as they are? The lanes are tortuous and narrow. If even our temples are not models of roominess and cleanliness what can our self-government be?

Shall our temples be abodes of holiness, cleanliness and peace as soon as the English have retired from India, either on their own pleasure or by compulsion, bag and baggage” (vide The collected works of Mahatma Gandhi, Vol: 15 (21 May 1915-31 August, 1917) pp 151-152, 4th ed. 2000. New - Delhi: publications Division, Ministry of Information and Broadcasting, Government of India).

At this point I will examine the trustworthiness of DP’s reference to the said correspondence of Gandhi and Nehru relating to the theme of foreign aid vis-a-vis internal resources in India’s economic development. First, DP is a person of high professional and personal integrity.

Second, Gandhi was in Bengal from 13th August, to 7th September, 1947.

Third, we do not have an opportunity to check the veracity of the matter with Prof. Amalan Datta, since he died in March 2010. Perhaps Prof. Amalan Datta and the small circle of academics had an unenviable task in putting the said correspondence under the carpet in the given historical context of independent India in the latter half of 1947. The aftermath of the Partition of India and the surcharged religious emotion was an awesome and almost unmanageable situation. The process of integration of Princely States with the Indian State was in the initial stage. The new Indian State encountered complex problems, and the administrative system faced an unprecedented and up-hill task in the governance of the nation. Perhaps Prof. Amalan Datta and his friends wisely thought that public knowledge of the contents of the said correspondence, specially Gandhi’s ideas on the property of religious

institutions of all denomination and of princely rulers, would threaten the stability of the Indian State. Therefore, their thoughtful decision to keep the said correspondence in the dark was a product of its time. After he returned to Delhi from Bengal, Gandhi had a Talk with P.C. Joshi (General Secretary, Communist Party of India) on September 9, 1947. He initiated the Talk with the following observation. “First of all I want you not to report our conversation in any paper. Not that I have anything to conceal, but it will not serve the cause” (The Collected Works of Mahatma Gandhi, Vol: 96. P.353). The observation of Gandhi is a testimony to the historical context for the decision of Amalan Datta and his friends.

Fourth, Gandhi landed at Bombay on January 9, 1915 from South Africa via London. His speech at the Benares Hindu University dated February 6, 1916 was delivered during the initial phase of his long and eventful political struggle in India, when our nationalist movement was led by Gokhale, Tilak, Annie Besant, Motilal, Lajpat Rai and other illustrious leaders. The letters of Gandhi to Nehru which were referred to by DP were written in the last year of Gandhi’s life. One finds a striking similarity in the views of Gandhi on the property of religious institutions and of Maharajas and Zamindars expressed in 1916 (BHU speech) and 1947 (letters to Nehru). Consistency or strict adherence to a set of fundamental ideas is the governing principle or virtue of Gandhian thought and practice. For these reasons, I am inclined to think that DP’s dialogue relating to the said correspondence of Gandhi and Nehru is authentic.

For Gandhi, the goal and agenda of Swaraj and Swadesi was to serve the poor and wipe out their tears, and provide succour to the most needy

and deprived sections of our people. He was firmly of the opinion that wealth held in the custody of princely rulers and religious institutions and bodies was produced by agriculturists, workers, craftsmen and artisans. Religious institutions should be centres of prayer and holiness, learning, good conduct and cleanliness. The princely order should hold its wealth in trust for the good of the society and poorer strata.

The meaning and message of Gandhian ideas are very clear. It is our bounden duty to properly utilize the wealth, except objects of historical and artistic value identified and certified by experts, found in the vaults of Sri Padmanabha Swamy Temple for financing programmes and projects to cater to the needs of poor people, and for national development.

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the treaty. According to them, it disregards the realities of the international security environments and nuclear deterrence is essential for maintaining the peace. It is to be noted that Belgium, Germany, Italy, Netherlands, Turkey are the nations hosting nuclear weapons. Albania, Australia, Bulgaria, Canada, Croatia, Czech, Denmark, Estonia, Greece, Hungary, Iceland, Japan, Latvia, Lithuania, Luxembourg, Norway, Poland, Portugal, Romania, Slovakia, Slovenia, South Korea, Spain (plus the five host nations) are the nations in nuclear alliance. Rest of the world is nuclear weapon free but not from its effects. Now time has come to show the commitment of countries including India towards nuclear weapon free world by signing the Treaty on the Prohibition of Nuclear Weapons and promoting the cause of peace.

—MKGANDHI Newsletter

Constitutionalism, Social Justice and Black Money - III

B. Sudershan Reddy

According to C. Rammanohar Reddy, another scholar in this area, “the Government commissioned three studies from three independent organizations for the preparation of the 2012 White Paper. The results of those studies have not been made public, though media reports of the estimates of one of the studies place the black income in 2014 at as high as 75 percent...”¹ Arun Kumar finds that the black economy has grown from 21 percent of the GDP in 1980 to as much as 62 percent of GDP in 2012.²

A large black economy and huge stashes of black wealth in various forms would have a tremendous impact on how resources are distributed across the economy. Taxation is also expected to serve another purpose: redistribution of the benefits of social action and lessen the degree of inequality. Tax evasion, and illegal and undue rents from exploitation of natural resources or through operation of businesses, would necessarily reduce the efficacy of the tax system in achieving that goal. A little over two decades ago, Prof. Arun Kumar also estimated the numbers who controlled this black economy. According to him, it was mostly in the hands of the wealthiest 3% of the population. In his more recent book, he suggests that this number has not really changed much. In fact we would probably have to assess that the concentration has tightened considerably. In some recent reports it has been estimated that the wealthiest 1% of this country own nearly 58% to 60% of all the wealth of this country. In large part

this increasing concentration of wealth in the hands of the few has been on account of the working of the black economy.

Obviously, the loss of tax revenues, insufficient realization of revenues from illegal exploitation of natural resources, and undue economic rents that are not properly accounted for by the avoidance of regulatory regimes implies that the State would have a lot less financial resources under its command. We have already noted as to what impact it may have had on our economy, in terms of its size. It has been estimated that it could have been about seven times bigger than what it is. This would mean that an argument can be advanced that, but for the black economy, the State could have also been realizing greater revenues to undertake programs that would push forward the goal of social justice at a faster pace. And we would have also had less to do in terms of numbers of our citizens we would be protecting from deprivations.

We need to firmly grasp that a black economy necessarily implies that the resources needed for building state capacities have been severely restricted. Even with respect to the numbers of police personnel we employ, and the training that is giving to them, has been adversely impacted on account of funds crunch. We simply have not invested enough in our legal system to be able to provide our citizens with speedy justice. And in many instances our capacity to project our strengths in the geo-strategic

sphere has also been severely restricted by virtue of paucity of financial resources at our command.

Let us take note of the text of just a few of the Directive Principles of State Policy that are said to be foundational to governance and see what the impact of black economy has been on the State’s primordial promises:

Article 38(1) provides that “The State shall strive to promote the welfare of our people by securing and protecting as effectively as it may a social order in which justice, social, economic and political shall inform all the institutions of the national life.

Article 39(b) mandates that the State shall direct its policy towards securing... “the ownership and control of the material resources of the community are so distributed as to sub-serve the common good”

Article 39(c) mandates that the State shall ensure “that the operation of the economic system does not result in the concentration of wealth and means of production to the common detriment...”

Article 39(f) provides mandates that the State should seek to ensure “that children are given opportunities and facilities to develop in a healthy manner and in conditions of freedom and dignity, and that children and youth are protected against exploitation and against moral and material abandonment.”

Article 41 provides that “The State shall, within the limits of its economic capacity and development, make effective provision for securing the right to work, to education and to public assistance in cases of unemployment, old age, sickness and disablement, and in other cases of undeserved want.”

Let me reiterate that I am only mentioning a few of the Directive Principles to provide us with a broad picture of important areas of human welfare that we have failed in.

Take Article 38(1), which mandates that the State shall undertake such steps as to ensure that all institutions of our national life are informed and guided by principles of complete justice – social, economic and political. Now consider the issues faced by our women, our female children and even our female fetuses. How horrific is the scale of injustice that is being perpetrated on a daily basis? How many millions of fetuses are aborted in India every year, primarily because of our preference for boys? How many new born female infants are being killed every year, again on account of preference for boys? Look at the horrendous sex ratios in our population. The shocking fact is that our sex ratio today is worse than what it was in the early 1900s. And then consider the incidence of sexual violence against our women. Every day, a new headline screams about one more horrific instance of rape, gorier than the previous one.

Obviously, the issue is on one plane also a matter of law and order – an institution that affects our national life. What are the resources we have been able to allocate to tackle these problems, given that they place at risk nearly 40% of our people? A few years ago there were promises made that every district would get a centre

to handle the issues of battered and sexually assaulted women. Apart from providing shelter to victims for a few days, these centres were also to help the victims secure medical attention, get justice by interfacing with the police to ensure that action is quickly taken against perpetrators and the guilty brought to justice, and also undertaking locally contextualized programs to change the attitudes about women. Each of these centres was envisaged to be independent and to be developed at a cost of about Rs 10 to 11 crores. The promise was that these centres would be developed rapidly. However, it seems that powers that be have decided to pare down the program considerably, and while the development of the centres is still being pursued it is moving at a much slower pace than what the nature of the issue warrants. Obviously budgetary issues have a constraining impact. And then we have not really begun to bring to the table the resources that would be consonant with the urgency with which we would be treating female infanticide and feticide. An argument could be made that if the black economy had been curtailed, then people and policy makers would have been less lax in taking steps to combat such issues.

Take Articles 39(f) and 41. How do we expect poor children to grow in a healthy manner, and in conditions of freedom and dignity, if we do not invest in building good schools with proper facilities and well trained teachers? Especially in the rural areas? Article 41 talks about “undeserved want”. What can be more undeserved than deprivation of education to a child. Article 41 recognizes that we can undertake such activities only to the extent that the State has the economic capacity. However, the case here, with the size of the black economy and wealth being what they

are, is that the State’s economic capacity is being undercut severely, and is being prevented from undertaking those activities that can secure a better future for our children.

I have already observed how natural resources can be exploited in a manner that deprives the State of revenues. In fact many forms of illegal exploitation of natural resources lead to other problems, especially where they affect the lives of the locals adversely, Mining mafias have often spawned revolutionary counters thereby creating major threats to the welfare of the people of that area, and their fundamental rights. This in turn also imposes huge financial burden, among other things, upon the State in combating revolutionary activities and getting embroiled in a never ending saga of tussle with the local populace too. Article 39(b), which I read out a few minutes ago mandates that the State shall endeavour to ensure that ownership and control of material resources, such as natural resources, be vested in a manner that subserves the common interest. The operation of mining mafias and other forms of illegal mining/extraction of natural resources generates huge amounts of black money and black wealth, attracting more people to such activities, so much so that it begins to appear like a vicious cycle. And the “common interest” that the Directive principles sought to protect is thrown by the wayside.

As pointed out earlier, Article 39(c) mandates that the State shall not allow the economy to function in such a manner that it leads to concentration of wealth. This principle has obviously been violated, as 58% to 60% of all national wealth is now held by the top 1% of our country. And black economy has contributed towards intensifying such concentration. This

would have implications for our democracy as the 1% fund political parties, and in return get more opportunities to further corner nation's resources even more. The ordinary political freedoms then might just become inconvenient customs to be squashed when exercise of such freedoms is uncomfortable to the 1%.

In summum bonum we would have to categorically assert that to a significant extent we have not really adhered to the guiding principles of our Constitution and in fact a legitimate conclusion would be that we have actually abandoned the Directive Principles. It is almost as if we have read the Directive Principles out of the Constitution, an excision of the soul of the Constitution without any constitutional amendments. And that too, notwithstanding the fact that the judiciary used the text of the Directive Principles in fleshing out the content of Fundamental Rights in general, and Article 21 in particular, and mandating that the State shall fulfill at least some obligations.

How did this happen? The easy answer would be to suggest that if the Directive Principles had been judicially enforceable, fully, then litigation against the State would have compelled the politicians and the permanent establishment to pursue policies that would have hastened the achievement of the goals set forth in the Directive Principles. I would submit that would not only be an easy answer, but in fact an incorrect answer. The fallacy of such claims is easily demonstrable: the judiciary has, albeit not very consistently, read many of the Directive Principles of State Policy into the Fundamental Rights and issued orders from time to time. One famous one, and which is critical to any notion of social justice, was the declaration of right to education until the age of 14

as a fundamental right. It took the political dispensation 20 years to enact a statute to give that decision legislative legitimacy and I am sure most reasonable people would accept the fact that its implementation is shoddy at best. Even today. Twenty years ago, Justice B.P. Jeevan Reddy, in his pragmatic idealistic approach, posited that this would be a part of the minimal moral content of Article 21. Most analysts agree that implementation of the Right to Education laws are spotty at best. We are entering a world in which many people speculate that Artificial Intelligence is likely to be the next big revolution, and that it would make many or even most human skills obsolete. Only those who have developed the skills at much higher levels of artistic and cognitive skills could find themselves useful and fulfilling work. How will our children even attempt scaling such heights, if they are deprived of basic education? And we still have elites, who control almost all of the black money and nearly 58 to 60% of the nation's wealth, grumbling about how any attempts by the State to raise revenues to educate our masses, to get them to be barely functionally literate would mean economic disaster, and how their incentive structures to be "productive individuals" and their "animal spirits" would be dampened.

Over the past two and half decades, increasingly the discourse has been against the State undertaking any welfare and social justice programs even as subsidies after subsidies and tax breaks after tax breaks were being extended to the big players in the private sector. With the discourse increasingly turning neo-liberal, the attitude of powers was that they could turn a blind eye to the tax evasion issues, and also issues relating to realizing appropriate revenues from

exploitation of natural resources.

Given the impact that black economy and black money has on the State capacity, and the extent to which the constitutional responsibility of ensuring social justice informs all walks of national life was compromised, I believe that it would be amoral, and socially and constitutionally irresponsible to suggest that tax collection regime, and the regime of allowing private players to exploit natural resources, both under and outside contracts and without the state realizing appropriate revenue from them, be allowed to continue in the same fashion.

Post the decision by the Supreme Court in ordering a SIT, because the Court felt that the State was not being sincere in its efforts to prevent illicit outflows of black money, and tackling black economy in general, it appears that the GoI has taken some steps to address the issue with greater urgency and focus. While ordering the SIT, the Supreme Court also cautioned the Government and the people of two things: (a) the first was that the issue was extremely complex, especially with regard to identifying and attempting to bring back black money from abroad; and (b) that the battle would be a long one, with hits and misses and hence requiring patience. In order to ensure that, in the long and hard road ahead, the enthusiasm of the Government does not flag, the Supreme Court converted a High Level Committee looking into the issues surrounding black money and black economy into a Special Investigation Team.

I would not like to go into a number of steps, and some may say even missteps, by the GoI to tackle this issue. That would make my lecture unnecessarily long. Yet, I suppose the

thousand pound elephant in the room has to be touched upon – “Demonetisation.”

Let me start with a word of caution, after asserting a fact. Given the magnitude of currency withdrawn, and the numbers of people affected at one go, irrespective of whether we agree with the decision of the GoI on November 8, 2016 or not, we have to admit that it was a historic and an unprecedented move. It is not as if others had not spoken of demonetization as a means to combat the black economy. In recent years, Kenneth Rogoff, a professor of Economics at Harvard University, and the author of a book “the Curse of Cash” has been one of the strongest voices in favour of limiting or eliminating high denomination currency from circulation, permanently, as an effective means of combating criminal activities and tax evasion. In his interviews about demonetization decision in India, Professor Rogoff, taking on board the stated claims of Government of India, noted that the motivations seemed to be similar to the ones he advocated in his book the “Curse of Cash.” However, he also outlined two specific ways the demonetization in India was proceeding differently from what he had advocated – the first was that he had advocated that demonetization be done over a long period of time, some seven years, and that too with respect to large notes; and the second was that he had recommended that large notes be done away with all together, whereas India was issuing an even bigger denomination note than the one demonetized.

From the available record, it seems that the White Paper of 2012 of the Government of India did contemplate the possibility of using demonetization as a means of combating the black

economy. In particular the White Paper of the Government of India says:

“...given the primary importance of cash in relation to both the generation and use of black money, there is no alternative but to target cash transactions in a way that will not affect those complying with the law, while making it difficult for those intending to generate and utilise black money.”²³

So at a broad level it would appear that an internal study of the Government had indicated that demonetization could be a legitimate policy tool, provided however it was effectuated in a manner that it would not affect those complying with the law. Given the secrecy, scale and speed with which the Government of India proceeded on November 8, 2016, we would have to conclude that the Government of India decided on a course of action that was not in consonance with what a study commissioned by it had recommended. This is so because demonetization affected not just or mostly the ones who were suspected as hoarding black wealth in cash, but also everyone else. And it affected the poor the most adversely.

The chief concern obviously was with the impact of demonetization on such a massive scale would be on the weaker segments of the population who essentially depended on cash transactions, both to earn a livelihood and to sustain themselves. As most of you are aware, there were many, many reports in the media, both print and electronic, that there was disruption in the lives of the people at a massive scale and that suffering was also wide and intense. There have been many reports of entire industries in certain regions having to shut shop, and many economists have opined that the

negative impact from demonetization and the time taken to inject cash back into the system in new notes, would be extensive and deep.

My own impressions are that ordinary citizens have suffered a lot more than the better off, the salaried classes and the rich. Whatever our own estimates may be as to the extent of black wealth stored in cash, when demonetization was announced, surely we would have to agree that the largest numbers feeling the pinch were the ones least likely to have black money/black wealth. And it is my belief that any policy decision that seems to affect the poor the most, and especially on this scale and intensity needs to be subjected to intense analysis, prior to its implementation with regard to what elements went into the decision making process, with regard to the impact on the people during the implementation phase, and also after the process has been completed. In fact, we are not yet sure whether the process has really been completed even now, because we still keep hearing about cash shortages for days on end, in at least a few ATMs and banks.

What the gains are, of course we will have to wait and see. The early indications are not very encouraging; however, we need to wait and see what follow on and collateral benefits there might be. However, the situation with the poor, or at least a large number that I have interacted with, is that they have suffered a lot but still believe that it may do good for the country. And many of them have consistently stated that even if they suffered more than the the ones with black wealth, it would still have been worth it. Because it sends a message that accumulation of black wealth is not acceptable to them. Dr. Y.V. Reddy argues that the decision by the Government is of questionable

merit; he nevertheless finds that the more important message from the manner in which the poor have behaved may be that the people are unwilling to abide by the amoral conduct of the well to do and agents of the state with regard to the black economy.⁴

It is my belief that the manner in which the poor have taken on the burden of demonetization raises some very important moral questions about what is to happen next. I will try to raise a few, to give a sense of what has been engrossing me for the past three months or so:

(1) Are there any attempts by the Government to assess as to the full extent of suffering and damage to the sectors and economic spheres in which the lives of the poor are most implicated? And the steps to be taken to make sure that the poor do get the succor and help to be made whole again rapidly?

That the poor have shown immense forbearance cannot be taken to mean that those of us who are better off, and the powers that be who have taken the policy decision are off the hook in being solicitous of their welfare. Nor does a victory in election absolve the ruling party of the responsibility of taking all the steps necessary to attempt ameliorating the continued negative impact on the poor. The message by the Government of India to the poor was that their suffering was in aid at reclaiming the soul of our country. To not truly reclaim that soul, in terms of the constitutional morality, would be a betrayal of the trust that the poor have placed, again, in the State, and those who control it. That should not and cannot be allowed to happen.

Is the Government of India doing

everything possible on this front? I don't know. We need to ask, and it is imperative that the Government of India explain what is being done.

(2) It has become clear that whatever gains we may reap, in terms of reducing the size of the black economy because of demonetization, there are many other segments of the population which hold and enjoy immense amounts of black wealth and who have not been affected by demonetization. In fact, many reasonable people would probably say that demonetization, even if one were to assume it to be well intentioned, has not even really dented the real holders of black wealth. The battle of black economy now really needs to move to the big players in this.

India cannot afford to perpetuate the sense that crony capitalists, the big babus and the political operatives and parties looting this country have been allowed to get away scot free. The suffering that the poor have undergone and undergo everyday implies that the goal of social justice cannot be compromised.

Yet we hear about strange things. For instance the reported new law that sources of political funding need not be revealed. How do we even begin to conceive the nature of such a move to make political funding less transparent when it is widely acknowledged that political funding plays a key role in how the power of the people vested in elected representatives and the permanent establishment gets exercised in a manner that is detrimental to public interest? And that political funding is the fount of black economy? I am at a loss as to what I should say about the contradictions in public values and destruction of constitutional morality by such a step. Can such a cynical

move be the grand gilt edging for our Constitution?

There are yet other questions that arise about maintenance of integrity of institutions and bodies of governance. The houses of parliament, the judiciary, the army, the RBI etc., are intricately implicated in a finely wrought fabric of governance by our Constitution. They cannot be compromised willily. So we need to ask questions such as:

(1) Were there consultations with a wider array of experts and/or heads of various institutions as to whether such a massive policy step ought to be taken, under what circumstances, and with what sort of preparatory steps being taken?

(2) Given that a Government of India commissioned White Paper cautioned against inflicting a burden on those who abide by the law, in the course of demonetization exercise, the sheer scale of demonetization effected on November 8, 2016 implies that everyone was caught up in the maelstrom. Surely, the Government would not have been unaware that even the law abiding citizens, and especially the poor were also going to be hit. What are the reasons and rationale by which the Government of India convinced itself that the warning in the White Paper need not be heeded?

From the perspective of constitutionalism, irrespective of whether the demonetization exercise turns out to be a roaring success or not, questions need to be asked about whether Indian constitutionalism ought to countenance such a mode of policy making and implementation. From all accounts, this was a big step, a big decision. With potentially humongous implications for the lives and welfare

of the people of India. The questions then would have to be about whether such a decision ought to be taken without wide consultations, and obtaining the inputs of the widest range of experts? Constitutionalism implies a wariness of decision making by one person or even a small coterie of people surrounding the main power centers. This is so because the risk of failure, and catastrophic consequences goes up exponentially as the scale and complexity goes up, and the coverage extends to most of the populace. Moreover, once such decisions are accepted, they become a precedent. Modern constitutionalism is always worried about the exercise of unquestioned power by a tyrant unwilling to be stopped by the magnitude of negative consequences. We need to be worried about what exercise of power on this scale, and apparently without involving other institutions would mean to making elected officials accountable to constitutional principles.

I think most of the answers to the questions I have raised above are covered by Babasaheb Ambedkar's speech at the ratification of the Constitution. He cautioned us that if we were to succeed as a constitutional democracy, we would need to do the following three things:

(a) Forswear unconstitutional means of pressurizing the State to do something or not do something and hold fast to constitutional methods of achieving our social and economic objectives.

(b) Not engage in such hero worship of the big man, or believe that one big man will solve all of our problems, that we end up suspending our faculties to see, observe, analyse, and critique the decisions being made by the big man.

(c) Finally, never waver from the goal of instantiating social justice in all walks of life, and being particularly solicitous of the welfare and progress of the weakest among us, and reduce inequalities. And bring an urgency to our endeavours in pursuing the goals set forth in our constitution. If we do not genuinely do that, and show concrete results, the poor might stop believing in the promise of democracy. And that would be disastrous for our country....

(Footnotes)

¹I am deliberately avoiding the "anarcho-capitalist" model, because we have seen no modern society built on alleged principles which advocate such complete absence of the State and any kind of collective action that even protection against child kidnapping is seen as detrimental to individual liberty.

² Friedrich Hayek, "Road to Serfdom" and "The Constitution of Liberty".

³Roy, Tirthankar: Economic History and Modern India, Redefining the Link. (Journal of Economic Perspectives 16(3):109-130 · February 2002)

⁴Heaney, Seamus: From the Cure at Troy, http://www.pbs.org/newshour/bb/entertainment-july-dec98-pinsky_10-29/

⁵Kumar, Arun: "Understanding the Black Economy and Black Money in India" (2017)

⁶Reddy, C. Ramamanohar Reddy: Demonetisation and Black Money (2017)

⁷Ibid, page 32.

⁸Kumar, Arun: "Understanding the Black Economy and Black Money in India" (2017)

⁹Reddy, C. Ramamanohar Reddy: Demonetisation and Black Money (2017)

¹⁰Ibid, page 32.

¹¹Ibid, Foreword page xviii

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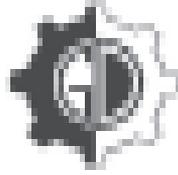
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