

# JOURNAL GLOBAL VALUES

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### STRENGTHENING INDIAN DEMOCRACY

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Alien rule made Indians to fight for freedom. Through the ordeal of freedom struggle emerged a galaxy of leaders in different parts of the country who sacrificed what-ever they had. Mahatma Gandhi, the father of the Nation, led the movement guided by truth and non-violence, in the words of Jawhar Lal Nehru, India awoke to freedom at the stroke of mid-night of August 14, 1947. Constitution making followed. The Congress Party could have easily packed the Constituent Assembly with its own party men but wisely decided to bring in leaders representing different sections besides stalwarts like N. Gopaldaswami Ayyangar, a successful administrator; Hriday Nath Kunzru, president of the Servants of India Society; Alladi Krishnaswami Ayyar, an eminent lawyer Dr. S. Radhakrishnan, philosopher and educationist par excellence, who later adorned the office of the President of India with distinction and H.C. Mookherjee, another eminent educationist from Bengal, Dr. B.R.Ambedkar who was a bitter critic of the Congress was appointed as Law Minister and made the Chairman of the Drafting Committee. He piloted the draft Constitution with rare ability. Nation building needs a similar attitude and effort.

The Constitution opens with the words: "We, the people of India" which convey that the people are sovereign. The preamble incorporates the promises made during the freedom struggle such as justice, liberty and equality to all citizens and seeks to promote fraternity among them, assuring the dignity of the individual and the unity and integrity of the nation. It guarantees enforcement of the rights to equality, freedom of speech and expression, life and personal liberty, freedom of religion and conscience, rights of minorities etc. "The Directive principles of State Policy" sets the agenda for State action to secure a just social order by eliminating inequalities in status, facilities and opportunities making an effective provision among other things, of securing the right to work, to education and to public assistance in cases of undeserved want, providing within a period of 10 years for free and compulsory education to all children till they complete the age of 14 years and promoting with special care the educational and economic interests of the weaker sections of the people and, in particular, of the scheduled castes and scheduled tribes. Being conscious of the large scale poverty and illiteracy in the country, the framers gave priority to education while opting for universal adult franchise. If free and compulsory education had been provided within the period of ten years as stipulated in Article 45, today illiteracy would have been confined to a very small percentage of old people. The country would have advanced a great deal. Sadly, the manifesto in part IV of the Constitution remains largely unimplemented. So long as the leaders who were in the vanguard of the freedom movement were at the helm of affairs, the governments, by and large, remained people-oriented. There was visible development all over the country. After their exit from the scene, there is a steady decline in the commitment of political leaders to the Constitutional goals. The people are now disillusioned with the functioning of democracy. The question which stares us in the face is : Are present day politicians in power fit to govern, barring stray exceptions like Dr. Manmohan Singh or Lal Bahadur Shastri ?

In a memorial lecture delivered shortly before becoming Prime Minister, Atal Behari Vajpayee diagnosed the ills affecting Indian democracy. He said : "...the electoral system has been almost totally subverted by money power, muscle power, and vote bank considerations of castes and communities. As a result, although casteism and communalism may be weakening in social life. The same are being aided and abetted by the electoral process'. Elections are not entirely free and fair; they are not reflecting the true will and aspirations of the people. The natural inclination of today's MPs and MLAs is to get involved in the executive function-that too without accountability

and much capability. The exceedingly high premium placed on capturing power by fair or foul means is because of the elected representatives' conviction that power is the passport to personal prosperity. Corruption in the governing structures has, therefore, corroded the very core of elective democracy. Barring exceptions, those who get elected to these democratic institutions are neither trained, formally or informally, in law-making nor do they seem to have any inclination to develop the necessary knowledge and competence in their profession. ...The manifestoes, policies, programmes of the political parties have lost meaning in the present system of governance due to lack of accountability." You may ask: What did he do as Prime Minister for over 6 years? Not much. In the words of Nani A. Palkhivala : "The moral crisis is writ large on the entire political scene....The grim irony of the situation where the one job for which you need training or qualification what so-ever is the job of legislating for governing the largest democracy on earth. You need years of training to attend to a boiler or to mind a machine, to supervise a shop floor or to build a bridge, to argue a case in a law court or to operate upon a human body. But to steer the lives and destinies of more than 650 millions (now more than 1000 millions) of your fellow-men, you are not required to have any education or equipment at all!" C. Subramaniam, Former Union Finance Minister and later Governor of Maharashtra suggested that the candidate for election to an Assembly or Lok Sabha must possess a mini-mum educational qualification or have experience in the functioning of the panchayat raj institutions or most have done public service in a recognized voluntary service organisation.

Even though the powers and functions of the Executive, the Legislature and the Judiciary are clearly demarcated in the Constitutions, the failure of the Legislature and the Executive to achieve the constitutional goals has cast a heavy burden on the Judiciary to meet the challenges of our time. Not to let down the people, the Supreme Court restored to innovative interpretation of the Constitution. For example, realising that for over four decades, the State had failed to provide for free and compulsory education to children below 14 years of age without any justification, in J.P. Unni Krishnan Vs. State of Andhra Pradesh the Court declared that the right to life guaranteed by Article 21 includes the right to free education up to the age of 14 years. The mandate of Article 45 has been transferred into a fundamental right. Instead of giving effect to the judgment, after nine years of inaction, Parliament inserted Article 21A in the Constitution in 2002. It reads : "Right to education - The state shall provide free and compulsory education to all children of the age of six to

fourteen years in such manner as the State may, by law, determine,". The effect of the words "six years" and "in such manner as the State may, by law, determine" is to abridge the right. Until the State makes a law determining the manner in which free and compulsory education shall be provided to children, Article 21 A cannot be enforced. No State has made a law till now. This is not the way to give effect to the law declared by the Supreme Court.

The quality of representatives has changed over the years. Political parties offer tickets to candidates who are likely to win irrespective of their shortcomings and the means employed. Persons with money and / or muscle power are able to get elected in increasingly large numbers. As a result the traditional politician is being elbowed out gradually. Apart from money and muscle power, reliance on caste and community helps to get elected. The solemn resolve of the people to promote fraternity and unity and integrity of the nation, aims at a classless society. Unmindful of this, present-day politicians keep on dividing the people on the basis of caste and community for electoral advantage. English men ruled the country dividing Hindus and Muslims. The country was never divided so much as it is today.

"Castes are anti-national" declared Dr. B.R. Ambedkar in the Constituent Assembly. "In the first place because they bring about separation in social life. They are anti-national also because they generate jealousy and antipathy between caste and caste. But we must overcome all these difficulties if we wish to become a nation in reality. He was apprehensive about the future of India. "Will Indians place the country above their creed or will they place creed above country? I do not know. But this much is certain that if the parties place creed above country, our independence will be put in jeopardy a second time and probably is lost forever. This eventuality we must all resolutely guard against. We must be determine to defend our independence with the last drop of our blood".

Article 16(4) provides for reservation of posts under the State in favour of backward classes including scheduled castes and scheduled tribes. Similarly, Article 15(4) permits reservation of seats in educational institutions for them. Does backward "class" mean a backward "caste"? This question was answered finally in Indra Sawhney vs. Union of India. A nine-judge Bench has declared: "Identification of backward classes can certainly be done with reference to castes among,

and along with other occupational groups, classes and sections of people". The notified backward classes all over India are only castes. Perpetuation of castes is inevitable. Nani A. Palkhivala's comment is apt. "The basic structure of the Constitution envisages a cohesive, unified, casteless society. By breathing new life into casteism, the judgement fractures the nation and disregards the basic structure of the Constitution. The decision would revitalise casteism, cleave the nation into two-forward and backward -and open up new vistas for internecine conflicts and fissiparous forces, and make backwardness a vested interest. It will undo whatever has been achieved since independence towards creating a unified, integrated nation. The majority judgments will revive casteism which the Constitution emphatically intended to end: and the pre independence tragedy would be re-enacted with the roles reserved -the erstwhile underprivileged would become the privileged"

At the inaugural sitting of the Constituent Assembly. Dr. Radhakrishnan said: "India is a symphony where there are, as in an orchestra, different instruments, each with its particular sonority, each with its special sound, all combining to interpret one particular score. It is this kind of combination that this country has stood for. It never adopted inquisitorial methods. It never asked the Parsis or the Jews or the Christians or the Muslims who can take shelter there to change their creeds or become absorbed in what might be called a uniform Hindu humanity..." "Live and let live" - that has been the spirit of the country".

Previously the elected representatives believed and behaved as servants of the people. There was hardly any conflict of interest. Now the picture is different. Persons without any commitment to Constitution, its values have been entering Parliament and State Legislatures in large numbers. Criminals have been invading Legislatures and grabbing the office of Ministers. In Vineet Narayan's case the Supreme Court took note of N.N.Vohra Committee Report of criminalization of politics which says that the network of the mafia is virtually running a parallel government pushing the State apparatus into irrelevance. The Law Commission of India in its 170th Report on Reforms of the Electoral Laws (1999) has observed as follows: "There has been a steady deterioration in the standards, practices and pronouncements of the political class, which fights the elections. Money-power, muscle power, corrupt practices and unfair means are being freely employed to win the elections". (pr.1.1.2) The National Commission to Review the working of the Constitution (2002)

has also noted increasing criminalization of politics and of the electoral process. It observed "The main cause and source of political-decay is the ineptness of the electoral process which has not been able to keep out criminal, anti-social and undesirable elements from participating in and even dominating the political scene and polluting the electoral and parliamentary processes" (pr.2.26.3).

"Political parties, which have a fair share of the criminal elements, handle enormous funds collected ostensibly for meeting party and electoral expenditure. Money-power and criminal elements have contributed to pervasive degeneration of standards in public life and have criminalized politics. This is reflected in the quality of governments and of the governing processes. (pr.2.26.3) "There is crisis of confidence. There is crisis of leadership. Political leaders, owing to narrow partisan and sectarian interests and desire for short-term political gains, are unable even to agree upon broad common national purposes"(pr.2.26.3). Several other committees and commissions have also made recommendations to improve the quality of Indian democracy.

The new Prevention of Corruption Act is not enough to tackle the widespread corruption. The rate of conviction is very slow. Removal of corrupt public servants through disciplinary action is equally difficult. It is necessary to make a provision in the Constitution to compulsorily retire public servants of doubtful integrity on payment of proportion-ate or minimum pension. It would be a small price compared-to the magnitude of public interest protected.

Getting rid of" public servants" who are undesirable is not enough. It should be followed by selection and appointment of honest and most competent persons for all posts including the posts of Ministers. In the words of Palkhivala: "By voting ignorant professional politicians to power, we have kept a singularly gifted and enterprising nation in the ranks of the poorest on earth" In his concluding address to the Constituent Assembly Dr. Rajendra Prasad observed: "The welfare of the country will depend upon the way in which the country is administered. That will depend upon the men who administer it... If the people who are elected are capable and men of character and integrity, they would be able to make the best even of a defective Constitution. If they are lacking in these, the Constitution cannot help the country. India needs today nothing more than a set of honest men who will have the interest of the country before them "Prime Minister Jawaharlal Nehru used to pick up talent both inside and outside the parliament and the party. He inducted in his Council of

Ministers R.K. Shanmugham Chetty, John Matthai, N.Gopaldaswamy Iyengar, Dr. C.D. Deshmukh and Chief Justice M.C. Chagla, none of whom was a member of a political party. Like wise, P.V. NarasimhaRao made Dr. Manmohan Singh the Finance Minister and together they ushered in bold economic reforms. The quality of performance of such Ministers was far superior to politicians. Likewise recruitment of personnel to all services needs to be based on ability and character and through credible agencies. The best brains of the country alone can steer the country clear of the present crisis.

In every underdeveloped country, there are 'have' and 'haves nots'. Those who are above the poverty line and can afford to have more children tend to limit their number voluntarily, but families which are below the poverty line multiply fast. It becomes the responsibility of the State to look after them but the State is not shouldering this responsibility. According to Dr. Amartya Sen 40 to 60 percent of children in India suffer from under-nourishment. Without strict control of population, eradication of Poverty will be difficult. If China which has the largest population in the world would enforce a single-child norm and achieve progress, can't India implement its two children norm seriously?

Women constituted roughly 50% of the population but now the sex ratio is declining. Female foeticide is noticed in different parts of the country. Bride burning is peculiar to our country. Unless the sex ratio is maintained there will be a serious imbalance with men far outnumbering women. The Constitution not only guarantees equality to women but permits special provision being made for them and children. Article 16(1) of the Universal Declaration of Human Rights declares that men and women entitled to equal rights as to marriage, during marriage and at its dissolution. However, the ground reality is that they don't enjoy equal rights at all; not even in the matter of succession. The Muslim and Christian laws of divorce favour husbands. In every family, it is the woman who keeps the members together looking after each one of them. It is the women who suffer crime and indignity more than men.

In the ultimate analysis, education holds the key,. Character can be built only through education with a spiritual base. Principle 7 of the Declaration of the Rights of Child, 1959 says that a child "shall be given an education which will promote his general culture, and his sense of moral

and social responsibility, and to become a useful member of society". The University Education Commission (1949) chaired by Dr. S. Radha krishnan under-lined that the universities in independent India have to provide leadership in politics, administration, profession, industry and commerce. They must enable the country to attain, in as short a time as possible, freedom from want, disease and ignorance, by the application and development of scientific and technical knowledge. Noting that India is rich in natural resources and her people have intelligence and energy and throbbing with renewed life and vigour, the Commission said: "It is for the universities to create knowledge and train minds who would bring together the two - material resources and human energies...If our living standards are to be raised, a radical change of spirit is essential." According to the Commission: "Our leaders must be capable of intellectual analysis and imaginative insight. Universities are the homes of intellectual adventures.. Since education is both a training of minds and a training of souls, it should give both knowledge and wisdom." John Henry Newman advocated liberal education with due emphasis on discipline and enlargement of mind. Value-based education imparted in a missionary spirit alone can produce leaders who can make democracy a success. Democracy affords an opportunity; does not guarantee good governance. We have by and large governments of the politicians, by the politicians and for the politicians today. They have not been able to secure to the people the basic necessities of life such as water, food, shelter, education, health care, employment, law and order and power, nearly 35 percent of citizens continue to live in abject poverty. Starvation deaths are not uncommon. We need governments of the people, and for the people. The sovereign people of India, the masters in a democracy, are trapped in a vicious circle. Indian democracy needs to be strengthened. We can and must do it.

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