

PSTSCRIPT II

SOME OF MY RECOMMENDATORY COMMENTS FOR OUR GOVERNMENT AND CITIZENRY TO CONSIDER

1. As the security of our Motherland is most pressing and important, I wish our Government learns lessons from what we had suffered on account of the Chinese Aggression in 1962: [see the Memoir pp. 117-119].
From our performance, we can learn lessons in better public relationship. To find better ways for our preparedness for war is the best guarantee of peace. “I noticed two points which deserve to be mentioned to be remembered: one pertains to the nature of our people’s response that put our government’s endeavour at pathetic contrast; and the other, the Chinese attitudes towards nuclear weapons” [see the Memoir at p. 119].
2. As I have remained closely associated with many universities over half a century, I have briefly set forth my ideas on the ‘Plight of Education’ for our countrymen to consider: [see the Memoir pp. 119-122].
We must be cautious against the corporate contrivances and conspiracies. In search for technological wonders, let us not become indifferent to the nobler virtues of education which purify what is dross, and ennoble what is base. There should be a collective endeavour to tackle with the ‘Wallace Paradox’ [see this Memoir pp. 266-268], so that “we shall find the only effective and permanent remedy for Depression of Trade.” [see this Memoir p. 54].
3. In a great nation’s life, moments do come when a quest for justice leads to movements and revolutions. This Memoir portrays some of the greatest revolutionaries, like Sita (see p. 19 of the Memoir), Krishna, Jesus, Buddha, Muhammad, Marx and Gandhi (see Chap. 20 of the Memoir). It also states the core of the grammar of revolutions. [at pp. 281-282]. You may appreciate the Line of Fire that is conceived to measure the ascent, or descent, in movements and revolutions: (see p. 338, and Postscript 1). Reflections on these would help you catch many ideas not stated in so many words, but implied.
4. We must read and reflect on the fundamental ethical principles which I read on a board at the Wardha Ashram. The photograph of this Gandhian Edict can be seen in Chapter 3 of this Memoir. We must avoid those ‘Seven Social Sins’ and we must not lose the Gandhian *talisman* (see p. 333) that can help the decision-makers of our country in building up a just society.
5. In 1973, I had suggested, in my LL M dissertation on the International Law pertaining to the Maritime Resources, for a multilateral treaty, under the

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- U.N. supervision, to set up a maritime regime by establishing international organs, like (i) the Sea Assembly, (ii) the Sea Council, (iii) the Director General of the Sea Authority, and (iv) the International Sea Court (see 139-140 of this Memoir). I was glad that almost two decades after, the International Seabed Authority was set up in 1994 to operate in terms of the United Nations Convention on the Law of the Sea (UNCLOS). On its modality, I have suggested the setting up of the International Tax Authority (ITA) to deal with the problems in the realm of international taxation (see pp. 223-224 of this Memoir). I wish our Government, and the UNO consider my suggestions for setting up the International Tax Authority. This might help us tackle the problems of black money and black economy.
6. In the light of more than three decades of experience as a member of the IRS, I have discussed some seminal problems pertaining to the income-tax law and administration. I would feel amply rewarded if my ideas help improve our tax administration the heat and burden of which I bore for long with pleasure and pain (see Chapters 16 & 17 of this Memoir) that enriched my mind that has guided my nimble fingers to scribble almost about 300000 words in this Memoir in my late seventies.
 7. The need for setting up an institution, to be called ' the Union Administrative Services Commission', has been stressed so that it can do for the administrative services what the High Courts are supposed to do for the subordinate judiciary (see p, 236 of this Memoir). Besides, it is the time to consider whether it is worthwhile to adopt *droit administratif* in our country (see pp. 234-235).
 8. For the first time the imageries noticed on the architecture of the Supreme Court of India have been studied to bring out what these convey holistically to the lawyers, litigants and the Hon'ble Judges involved in the administration of justice (see Chapter 19). Chapter 25 summarizes 12 short stories each of which is an 'objective correlative' for expressing some of the profoundest ideas of practical relevance deserving concentrated study and reflections by our citizenry.
 9. The problems posed by the tax havens and secret jurisdictions, and the new 'states system', have been examined, and many suggestions have been advanced how to deal with the problems they have posed (see Chapters 23, 26, and 29). Lessons deserve to be learnt from the PIL that I had conducted seeking remedies against the abuse of the Indo-Mauritius Double Taxation Avoidance Convention: see Chapters 23 of this Memoir.
 10. It is time for us to evaluate the assumptions of the neoliberalism, and to notice how the *entente* of Fraud and Collusion has emerged to deceive us by painting a mere treacherous and shifting rainbow of hope. To appreciate this view one must be clear about our own worldview, and the basic assumptions which we share. Chapter 24 examines our worldview, and Chapter 29 discusses the main strands in the Western intellectual traditions that help us to discover how 'Capitalism, Corporate *imperium* and Corruption' go together in our modern society. The ideas set forth in them would help us understand the ideas, actions and traditions of different societies of the East and the West. I have drawn up the portrait of our times in Chapter 29 of the Memoir.

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11. If our democracy is to function well, we must consider how to re-structure our democratic polity in order to make it really accountable, and greatly responsive, to our people. (see Chapters 22 and 30 of the Memoir).
12. We must resist the generation of consumerist, hedonist, self-centric attitudes as that would surely denude the humans of all those great qualities without which the beauty and light would go from life, our literature and arts would turn barren, and all the fine treasures that humanity has yet amassed would be lost. None should forget what history teaches: Rome fell; Babylon fell; the imperious Church fell,.....and the Pax Mercatus's turn too will come sooner than it can be imagined.
13. All efforts deserve to be made to ensure that our Constitution is not diluted by subjecting its egalitarian mission to a neoliberal gloss; that our domestic institutions are not weakened and devalued by outsourcing their powers and functions to foreign bodies; that our Rule of Law is not subverted by creating two legal systems in one country (one for the natives and the other for those who can invoke remedies at the foreign fora); that we must not allow intrusion into our domestic space to the extent as to make our Constitution itself dysfunctional.
14. As the sovereignty of the Republic of India is essentially a matter of constitutional arrangement, which provides structured government with conferred powers and prescribed duties, our Executive Government does not possess any "hip-pocket" of unaccountable powers" to be exercised in the domestic sphere, or at the international plane. Hence, the treaties and agreements in disobedience to the mandatory constitutional restraints, deserve to be declared 'domestically inoperative' by our superior courts.
15. Our natural resources and human resources should be used to enrich our country in order to create conditions under which the socialist vision, set forth in the preamble to our Constitution, can be realised for the weal of all of us alive, and for those who will come after us, always preserving and protecting our environment and resources. To say metaphorically: we must ensure that clouds formed in our country, rain here rather than trail away to shower in alien jurisdictions, secret sanctuaries, dark holes, and the virtual vaults which the crooks have created in our times. The crooks can make even clouds 'bad patriots' like the salmon which comes to reproduce in fresh water but deserts that, once the purpose is served, by migrating to the deep ocean! My Professor of Maritime International Law had aptly told me 1970 that the salmon is a 'bad patriot' ! I wish our clouds be not seduced causing wrongful loss to us, but providing wrongful gains to others. I need not develop what is obvious: have we not seen our clouds' downpour in Mauritius, Switzerland, Liechtenstein, the Cayman Islands, the Virgin Islands !..... We know all these, but we evade the reality. Evasion of reality is our tragedy. [see Chapters 21 & 29 of the Memoir]

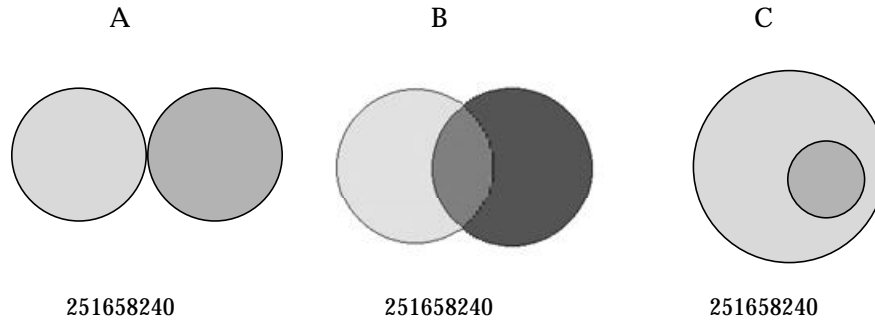
AN ASIDE

An overview of our world in which we and our institutions are on trial

The neoliberal agenda intrudes into our 'domestic space' through the acts of the IMF, the World Bank, the WTO, and the scores of foreign corporate investors

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intruding into our domestic space. Our economy and polity have become bifocal: one system for the common people, and the other for the Big Business. Our Government has become Janus-faced (see p. 488 of the Memoir). I think the following three diagrams would throw some light on the state of affairs of our times. Please consider the following diagrams:



The dark is our domestic space where the writ of our Parliament runs; the grey is the space where international law operates. Roughly speaking, till World War I, 'A' was broadly the functional model in the world. After World War II, the grey circle kept on encroaching on the dark circle: first at a creeping pace, and then aggressively (see diagram 'B'). The diagram 'C' presents a phase, advancing fast on tiptoe, when the process of Globalisation imperiously works to subsume 'domestic space' into its realm establishing subjugation of the political realm (to which our 'democracy' and 'constitution' belong) to the economic realm that promotes neoliberal agenda. Time might come when the 'domestic space' would get wholly subsumed in the global realm wherefrom a new Leviathan would emerge establishing the sovereignty of 'corporatocracy'.¹ And when it happens, the result would be, perish the thought, what Mattias Kumm² so perceptively points out:

“There is no longer a person (the king) or an institution (the parliament), a text (the constitution) or even a source ('We the People') that can plausibly serve as an ultimate normative point of reference and symbol of the unity and coherence of the legal and political world. In this sense, the world may be moving beyond constitutions. “

Such gloomy thoughts make me tense. I recall the words of Bertrand Russell (*Autobiography* p. 629): “ Like Cassandra, I am doomed to prophesy evil and not be believed. Her prophecies came true. I desperately hope that mine will not. ”

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1. “This means that the concept of 'domestic jurisdiction' does not denote specific areas which are clearly defined, irreducible or in any way inherently removed from the international sphere. It rather circumscribes areas which, taking into account the situation at issue, are not even prima facie affected by rules of international law...In order to remove an area from the sphere of domestic jurisdiction, it is sufficient that this area be regulated by international law only in certain respects.” Ian Brownlie, *Principles of Public International Law* p. 454 (8th ed.)
 2. Mattias Kumm, 'The Legitimacy of International Law: A Constitutionalist Framework of Analysis' *The European Journal of International Law* Vol. 15 no.5 © EJIL 2004