

AN OVERVIEW

ON THE LOOM OF TIME

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Today, India's political economy stands at a crossroad! There has literally been a deluge of scams all around us in the past two years. Even as the 2G Scam continues to take toll of political and corporate heavyweights, Mauritius, which alone accounts for about 40 per cent of FDI inflows into the country, has emerged as the most titillating destination for the laundered money being talked about. Whether you are either a votary or an opponent of the growing abuse of the India-Mauritius tax treaty, you cannot overlook the two most glaringly connected facets of this most controversial tax treaty - one is the Supreme Court's oft-cited *Azadi Bachao* decision, and the other is the democratically-spirited custodian of the national interest *pro bono publico*. Yes, I am referring to the author of this highly readable autobiography which reflects the eventful journey of the 'representative common man'. Though it is largely believed that the story of a common man in India cannot be more interesting than a 'tonsured' mountain but here is a 'representative commonman' who has belied his skeleton-based worldly look and shown the rocky determination to take on the might of the treaty-abusers and also the misguided vision of the Union of India. Although the final verdict went in favour of the FIIs but the author succeeded in 'implanting' a new window in the mind of highest judiciary to see the future events differently. And that is how what we see today in terms of the latest Apex Court decision in the case of *Ram Jethmalani v. Union of India*, goes to vindicate his premonitions about the risk and the threat the blatant abuse of the India-Mauritius tax treaty poses not only to the interests of our exchequer but also our national security.

Let's now go straight to his precious compilation of intellectually-energising experiences spanning over more than seven decades. The First Part deals with his family of freedom fighters, his own people, his parents who embraced the lathi of the British-Raj, his childhood days, ruminations of his adolescence period and finally the flowering of his mind - a tryst with the academic world. Starting his career as a Lecturer at the age of 20, he later joined the Sardar Patel-initiative Steel Frame of India as an Indian Revenue Service Officer. While working with the Income Tax Department, he had two innings of posting in Patna, and both were eventful. The second inning was particularly more exciting as he had to deal with the most celebrated scam involving one of India's most rustically eloquent politician Laloo Prasad Yadav. He has a lot to share on the fodder scam and also to lend an insight into how to conduct investigations into such high-profile cases. The author has devoted a full chapter on intricacies of the monitoring of cases by the Patna High Court and also talked about 'The Concept of Judicial Monitoring:

A Critique of the Concept'. This has become more relevant in the light of the recent decision of the Apex Court directing the Govt. to notify Special Investigation Team (SIT) on the cases relating to black money. He has also spoken of the plight of our continuously decaying public administration, courtesy the Shah Commission Inquiry Report. He has sumptuously reflected on the existing Income Tax law and also the tax administration. Readers may recall the Income Tax Department has been celebrating 150th Year of its service to the Nation, and if we find their services worthy of any encomium, it is only because of the officers like the author.

The most engrossing and contemporaneous is the part III which vividly depicts both the illusion and the reality of our system. It begins with the author's perceptions and expectations submerging in the realities prevailing on the campus of the Supreme Court. Experiencing the medley of *homo juridicus* on the campus, the author states: "I found many learned friends either busy breaking the wings of butterflies on the Catherine wheel of logic, or in denigrating (or admiring) the idols they were accustomed to worship, or just talking, without rhyme or reason about kings and cabbages." If any reader wants to have a tryst with the musical architecture, the pregnant murals, the fantasy to be weighed in the balances and the emblem of the Supreme Court, the first few pages are elegantly rich in details. Then follows the serious food for thoughts for the present and the coming generations. The author has richly reflected on Hindu's famous God Lord Krishna and the magnum opus *Bhagavad Gita*. How deeply this religious-*cum*-wisdom-studded empirical compilation has dominated the mind of the author and his understanding of our various democratic and legal institutions in that context can be seen through the cross-titles like "Our Problem: The Wallace Syndrome", "The Imperatives of the Grammar of Life", "Gita providing a remedy against the 'moral deficit' of our time", "Krishna and Buddha, Krishna and Jesus, Krishna and Muhammad, Krishna and Marx and Krishna and Gandhi" - a fascinating landscape of analogies.

Then comes our Constitution at work - a critical commentary on constitutional socialism and a warning for the creatures of Constitution to accept the discipline of our Constitution. For the votaries of constitutional democracy, this part is perhaps the most sumptuous insight. It is followed by the 'Democratic deficit' in the exercise of our Govt.'s treaty-making which has become a major bone of contention between India and Mauritius today. For issues like black money and illicit funds secreted away in tax havens, inadequacies in our treaties have come under scathing attack, and that is how we see today the Govt. of India hurriedly signing dozens of Tax Information Exchange Agreements and the amendments in Article 26 of the existing DTAs numbering about 80. While delineating on this aspect, the author has extensively taken a hard look at the achievements of, and expectations from our Parliament; Executive's attitude towards Parliament - An instance of gross 'democratic deficit'; the opening up of our economy - what went wrong; Political parties - Whether essential for a democratic polity and 'On the Anna Hazare Movement'. For those who care for the holistic insight into the evolutionary issues of democracy, the author has elegantly analysed the Western Views and the nature and the parameters of the Western Democracy. In this context, no reader should miss the chapter on 'Our Worldview & The Trends of

Our Time'. Here, the author has analysed the grammar of the dominant Western worldview and our illusion that the economic globalisation is a sufficient guarantee against a major war.

Apart from treaty-shopping, the author has also focussed on the GATT Agreement (the World Trade Organisation) and aptly titled the chapter as 'The Realm of Darkness: The Triumph of Corporatocracy'. This chapter is indeed an eye-opener for the 'shut eyes' of the Third World which is being gobbled up by the aggressive trading giants of the First World, and the WTO tends to pave the way for them by removing tariff wall and trade barriers. How India has succumbed to the WTO pressure, and what are the powerful instruments of the 'Darkness', can be clearly discovered in this chapter.

Given his 40 years of experience in revenue matters, he finally moves to his famous PIL in tax matters a la *Azadi Bachao*. He has devoted a good space to material points in Indo-Mauritius DTAA which can be a realistic guide for our policy-makers holding talks with the Mauritian Revenue authorities for amendment in the treaty. The legal materials stuffed in dozens of pages give valuable insight for our judiciary and the legal fraternity having interest in tax matters. Then he shifts to some of the gems of wisdom he has collected over 70 years in the form of never-to-forget small stories; clash of our civilisations. 'The Three Indias' etc.

For all those who have experienced the joy of river-rafting, this compilation promises a similar joyful 'flow', riding the currents of the real-life river of experiences. Although, for serious readers, its heavy size is a joy for many weeks but for some, it may demand an additional ounce of patience to finish it. I personally find it a bundle of precious experiences which would continue to enlighten many generations to come. It is indeed a must read for the students of law of all age groups.

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