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A MISCELLANY OF MY IDEAS FROM MY *PERSONAL JOURNAL*

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“By what authority doest thou these things? and who gave you this authority to these things?” (*Mark 11:28 in King James Bible*).

“No question is ever settled until it is settled right.”

Ella Wheeler Wilcox, Settle the Question Right

SOME FUNDAMENTAL IDEAS

(i) Time debateth with Decay

History proves: nothing survives except good deeds. All of us are lucky to have opportunities to do good for the benefit of all. The beauty and majesty of all our institutions last only to the extent the good work is done by them. None should forget that the world itself is the subject-matter of a continuing debate between Time and Decay. How perceptively Shakespeare said: to quote —

When I consider every thing that grows
 Holds in perfection but a little moment,
 That this huge stage presenteth nought but shows
 Whereon the stars in secret influence comment;....
 Then the conceit of this inconstant stay
 Sets you most rich in youth before my sight,
 Where wasteful Time debateth with Decay,
 To change your day of youth to sullied night;.....

(ii) The Grammar of Existence : DHARMA

I had an occasion to read *Message from Parliament House* in which Justice Dr. Rama Jois had compiled the inscriptions as on the walls of our Parliament House. Some of the *shlokas* tell us profound wisdom providing us an insight into *Dharma* essential to the art of the management of the public affairs to.

Text of the inscriptions	English rendering of the text	The place where the inscriptions exist
धर्मचक्र-प्रवर्तनाय (Lalit Vistara Ch, 26)	For moving the Wheel of <i>Dharma</i> .	overlooking the Speaker's Chair in the Lok Sabha.
सत्यं वद धर्मं चर (The Taittreeyopanishad Shikshavalli)	Speak Truth; follow <i>Dharma</i>	on the top of the entry gate to the Rajya Sabha.
एकं सद्भिर्वा बहुधा वदन्ति (The Rigveda I-164-466)	'One alone exists, the learned call Him in many names.	on the top of the entry gate to the Rajya Sabha.
इन्नलाहो ला युग्य् यरो मा बिकौ मिन्। हत्ता युग्य् यरो वा बिन क्तसे हुमा। "Almighty God will not change the condition of any people unless they bring about a change in themselves."	"Almighty God will not change the condition of any people unless they bring about a change in themselves" (as translated in <i>Message</i>)	inscribed in the arc-shaped outer-lobby of the Lok Sabha.

The quotes on the rocks have been carefully chosen to show those canons of practical ethics which inhere in *Dharma*, and always govern the discharge of the *Kartavy-karma*. '*Dharma*' has no doctrinal bias, no sectarian bias, and no sectoral underpinnings. They are the profound instructions for right actions to all our Arjunas present in Parliament how to act in discharge of their duties.

The most fundamental concept that we know is of *Dharma*. This word cannot be translated in any other language of the world because nowhere else the very grammar of existence was discerned with greater profundity and clarity. At the cosmic level, *Dharma* sustains everything so that it can run its course in accordance with its own existential grammar

The concept of *Dharma* has great practical relevance. *Dharma*, as Medhatithi says, means *kartavya* which is generally translated as 'duties' (*Dharmasbdad kartavyata vachanah*). An expert has explained it as a set of norms followed by those learned in the Vedas, and are "approved by the conscience of the virtuous who are exempt from hatred and inordinate affection." The Vaishesik philosophy defines its objective as the promotion of welfare (*yatobhodayani*). Bhisma

tells King Yudhisthira that the core of *Dharma* is: to love others ('Shantiparva' Ch. 260). *Dharma* sustains everything, human and non-human, and controls and regulates their nature and their acts. *The Mahabharata* has emphasised, at several places, that victory always goes with *dharma*: '*Yato Dharmahstato Jayah*' [reiterated by Karna ('Ydyogaparva' Ch. 142; by Drona ('Ydyogaparva' Ch.148); by Arjuna ('Bhishmaparva' Ch.21); by Sanjaya ('Bhishmaparva' Ch.65); and by Bhishma ('Bhishmaparva' Ch.66)].

(iii) The Rocks speak : Inscriptions in the Parliament House

Teach us to sit still
Even among these rocks,
Our peace in His will
And even among these rocks

T. S. Eliot's 'Ash-Wednesday'

Some of the *shlokas* compiled in *Message from Parliament* are sound instructions to our representatives assembled in Parliament. They express the profound wisdom set forth in our *Shastras*. I marvel at the wisdom and insight of those who selected such *shlokas* for inscriptions for the guidance of our representatives assembled in Parliament to discharge their great constitutional duties.

We know how in our ancient days great kings considered themselves bound by the instructions given in the *Shastras*. Our Constitution itself is *ashastra* for us. One such a situation I had explained thus in my book *Judicial Role in Globalised Economy* (published in 2005)¹: to quote from (Chapter 3) -

"Our literature provides us a suggestive story from which much wisdom can be derived. It is nuanced in the epic to turn into an expanded metaphor of deep import. The *Valmikiya Ramayana*, in its Kishkindhakand (the Part dealing with what happened in Kishkindha), tells us a lot about Bali's guilt which invited the divine curial justice. Sugriva was the victim of his wrath. Lord Rama came to help him. He struck Bali with a fatal arrow from a hide. Bali was furious, and he charged the Lord in scathing words. His charges were well reasoned. The poet devoted a full canto to set them forth, succeeded by a canto wherein the Lord replies in his defence quoting authorities. He made it clear that even He was working under constitutional limitations. Tulsidas has laconically described Bali's charges in these two celebrated lines of the *Ramacharitmanasa*:

Dharma hetu avatarhu gosayin, mara mohi byadh ki nayi.

Main veri Sugriva piyara karan kawan nath mohi mara.

[O Lord! you came to ensure the triumph of *dharma*, but you have killed me behaving as an ordinary hunter. Tell me the reasons why have you discriminated me from Sugriva.]

Bali charged Rama invoking his Fundamental Right to Equality. Lord Rama neither lost temper nor brushed him off in the huff. He explained to Bali his cognizable faults. He explained his fundamental duties, which left him no alternative but to kill him. He does not silence Bali with any ex cathedra assertion. He justified his conduct

with reference to binding authorities. He refers to the duties of king as mandated by the tradition and the *Manusmriti*. He suggested that even he was bound by dharma, which even he *cannot* break! Under our tradition even God is questioned.”

Here I intend to dwell only a few of those *shlokas* which provide directions to our representatives to think and act. Their import would be stated with utmost brevity leaving the pursuit of developing them comprehensively for persons abler than me.

न सा सभा यत्र न सन्ति वृद्धाः वृद्धा न ते ये न वदन्ति धर्मम्
धर्म स नो यत्र न सत्यमस्ति, सत्यं न तत् यत् छलमभ्युपैति

Mahabharata 5-35-58

[‘Sabha’ (parliament) does not exist where there are no elders; and they are not elders whose speech does not accord with *Dharma*. Their speech cannot be righteous (*dharmic*) if it is devoid of truthfulness, and bears the taint of deceit.]

An assembly does not exist if wise persons are not there. In this *shloka*, the word वृद्धा (*briddha*) means ‘the wise and learned’. Sanskrit literature contemplates three types of *briddha*: *vayobridha* (old in age), *gyanabridha* (mature in wisdom and experience), and *andaagamabridha* (mature with acquired knowledge). But none can be considered ‘wise’ unless he promotes righteousness. And there can be no ‘righteousness’ unless it accords with ‘truth’. This *shloka* deserves to be read with the hymn with which the *Rig-Veda* ends. I have quoted those lines in Chapter 22 (‘Our Democratic Republic and its great institutions’) at p. 333. The *shloka* tells us about essential traits, in effect, the qualifications, of the members of the Sabha* (here ‘parliament’): (i) they should be learned and wise; (ii) they should have courage and imagination to say what is right, (iii) they speak truth, and (iv) and they must be capable to realise that Truth never exists where craft and collusion, fraud and deception and delusion operate.

* If I rack my mind to find out the best model for a Sabha, I see it in the ‘Udyogaparva’ of the *Mahabharata* (see Chapters 1-7). They had gathered there to discuss matters to decide on the course of actions. Yudhishthira to whom a lot of injustice had been done by the Kauravas, was now in a position to demand justice. The Sabha had to decide what was needed to be done. They were to decide whether a war could be avoided. The deliberations led to the initiation of various efforts to come to a peaceful solution. The Mahabharata War occurred when all efforts had failed. The Instrument of Justice (the Greeks had called it Dike, we call it using the most comprehensive term: *Dharma*) had to exercise its *ultima ratio*. Krishna presented the problem for consideration with utmost precision and detachment. He explained what *Dharma* demanded. He left everyone free to deliberate. Everyone had the problems in the round and in the right perspective. None was under pressure or wrongful persuasion. Various shades of views were expressed with utmost candour. Some of the ideas went even against Krishna’s, and the motion could have failed. But the Sabha had a common pursuit, the members were learned, and all wished justice to be done. So in the end the motion was adopted. All possible efforts were to be made to achieve just and peaceful solution.

Whenever I think of the way our Parliament works. I feel our representatives in the House can derive much wisdom by reflecting on the proceedings of that Sabha than just by reading such tomes as Thomas Jefferson’s *Manual of Parliamentary Practice* (1801), *Robert’s Rules of Order Newly Revised*, or Erskine May’s *Treatise on the Law, Privileges, Proceedings and Usage of Parliament*.

सभा वा न प्रवेष्टवया, वक्तव्यं वा समंजसम्
अब्रुवन, बिब्रुवन वापि नरो भवति किल्मिषी

The *Manusmruti*, 8/13

[One may enter the Assembly Hall, or may not do so. But once he goes there, there is no option but to speak truth in a righteous way. The one who does not do that is a sinner".]

This is an instruction to those in the House who believe keeping their mouth shut when their duty is to speak for public cause. When the *shloka* requires the members to speak, it requires them to say only what is right and true. Those who violate these norms are sinners. When one is under duty to work for *lokakalyana*, one must say, assert, and do what promotes welfare of people. One is free to enter, or not to enter, the House to play the role of people's representative. But once one does that, there is no option but to play that role with fidelity and excellence. One must cultivate competence to understand issues, and one must acquire strength and imagination to fight for the right cause.

स्वे स्वे कर्मण्यभिरतः ससिद्धिं लभते नरः

The *Bhagavad-Gita* 18-45

[One attains perfection by discharging one's Duties.]

We believe that our Constitution expects all the organs of the State to discharge their constitutionally and legally prescribed duties (कर्तव्य *kartavya*). The *shloka* bids everyone to do his duty. Article 51A of our Constitution prescribes the fundamental duties of 'every citizen'. Article 84 prescribes that none can ever be a member of Parliament unless he is 'a citizen of India'. Hence, it is clear that all the duties, which Article 51A casts on ordinary citizens, are also the duties prescribed for the members of Parliament. I recall, while delivering my concluding address before the Hon'ble Delhi High Court in the Indo-Mauritius Tax Treaty Abuse Case, I quoted Lord Nelson's electric signal to his fleet at the battle of Trafalgar; "England expects that every man will do his duty"; and then I, as the Petitioner before the Court, added: "India expects that every citizen will do his duty".

The determination of one's *skartavya* in a given moment is difficult. It is context-specific, and can change from moment to moment. *Kartavya* is one's perception of the right line of action. But '*kartavya*' can be determined by a person only when he knows things well, only when he can perceive things with detachment, and decide in the light of wisdom (*viveka*).

अयं निजः परो वेति गणना लघुचेतसाम्
उदारचरितानां तु वसुधैव कुटुम्बकम्

The *Panchtantra*, 5-21

[The petty minds see the categories of 'mine' and 'not-mine' (or thine), but the broad minded persons see the whole world just as a family.]

This *shloka* brings to our mind what I call the 'Dhritarashtra syndrome'. We

all know that the Mahabharata War was caused by Dhritarashtra's 'mine' and 'thine' notions: the Kauravas were his ('mine'), the Pandavas were different ('thine'). The idea that this *shloka* expresses is relevant to our times. The idea that the *shloka* expresses is most important for us living in the days when materialism and consumerism have made us embrace the culture of narcissism. Christopher Lasch has portrayed the state of affairs in this sort of society in his well-known book *The Culture of Narcissism* (1979). He identifies our generation as 'the Me generation'. The *shloka* tells us to treat all humans as the members of one family. This is our vision of 'globalization'. For the weal of all we must remain ready to receive noble ideas coming from all sources. It warns us all: GREED IS NO GOOD".

सर्वदा स्यान्नृपः प्राज्ञः, स्वमते न कदाचन। सभ्याधिकारिप्रकृति-सभासत्सुमते स्थितः

The *Shukraniti*, 2-3

[The ruler should be wise, not ego-centric, in deciding matters. He should consider the views of the public functionaries, and also of those present in Court. In short, he should consider all the relevant views before taking decisions.]

This *shloka* is an instruction to the ruler. He must 'always be wise and intelligent'. 'Wisdom' is evidenced by his sense of propriety, proportionality, discrimination, fairness, and dedication. He should listen to what others, in the House, say before deciding crucial issues. He is to act for the weal of all. The *Padma Purana* considers such work done for: सर्वलोकसुखप्रदम्; and the *Shankhya Darshan* considers that a pursuit for 'general weal' (अत्यन्तलोकहितम् सत्यम्).

(iv) The Idea of Secularism and 'Dharma'

In the West, the idea of 'secularism' emanated from the idea of anti-clericalism. The Renaissance and the Reformation Movement led to the emergence of the powerful waves of atheism and agnosticism. Francis Fukuyama, the author of *The End of History and the Last Man* has said that we are living in a period of time that is analogous to the Reformation which made, in the West, 'religion' and 'politics' go apart." In the 20th century and the years which have followed, the quest at 'political liberation' has led to libertinism and narcissism, and all the nonsense that goes under the rubric 'post-modernism'. These have conspired to bring about corporate culture produced and conditioned by the soulless corporations. Peter Watson has aptly said that the shift in the ideas occurred in the 19th century itself: Owen Chadwick has portrayed the change in attitudes in his *Secularisation of the European Mind in the Nineteenth Century* (1975). This shift in the Western intellectual history was on account of several factors including the factors and vectors which emanated from the challenges posed by the 'social' and 'intellectual' problems: these included Karl Marx's materialism, industrialization, and anticlericalism, and the impact of science on the ways the humans think and work. It is interesting to note that Earnest William Barnes wrote his *Scientific Theory of Religion* (1933) recognising the existence of "a Universal Mind which inhabits all matter in the universe, and that the purpose of the universe is to evolve consciousness and conscience in order to produce goodness and, above all, beauty"¹, Peter Watson has made a very insightful comment when he said: "

Chadwick's more original point is that as the nineteenth century wore on, the very idea of secularisation itself changed." Besides, 'Christianity' itself is developing its 'secularist' dimensions, It would be clear from what an expert has said about the developments in 'Christianity':

"The movement towards secularism has been in progress during the entire course of modern history and has often been viewed as being anti-Christian and antireligious in the latter half of the 20th century, however, some theologians began advocating secular Christianity. They suggested that Christianity should not be concerned only with the sacred and the otherworldly, but that people should find in the world the opportunity to promote Christian values. These theologians maintain that the real meaning of the message of Jesus can be discovered and fulfilled in the everyday affairs of secular urban living."²

The study of the Chapter 24 ('Our Worldview & the Trends of our Times') would help you realise that it is unwise to confuse '*Dharma*' with 'religion'. 'Religion' is a set of doctrinal assumptions which a particular society cultivates, and pursues to achieve its ends. History has shown that the sets of combative assumptions acquire respectability. Reject all doctrines, banish all gods, forget all scriptures, yet *Dharma* would be there to sustain nature. We never allowed 'religion' and 'politics' to become collaborators, so we never thought to set them apart.

The concept of 'Secularism' in the Preamble to the Constitution of India must be understood in the context of our culture. It means '*sambhava*', the capacity to see the 'One' in all. The *Bhagavad-Gita* tells to become *samdarshinah* [The *Bhagavad-Gita* (V.18)]. Its import is to be understood in the light of the mission of our Constitution, and the fundamental cultural assumptions shared by the people of India.

H. M. Seervai rightly explains the import of secularism in his *Constitutional Law of India* (P. 277) thus:

"Secular" may be opposed to "religious" in the sense that a secular State can be an anti-religious State. In that sense, the Constitution of India is not secular, because the right to the freedom of religion is a guaranteed fundamental right. The word "secular" may mean that as far as the State is concerned, it does not support any religion out of public funds, nor does it penalize the profession and practice of any religion or the right to manage religious institutions as provided in Arts. 25 and 26. The secular nature of our Constitution has to be gathered from these and other Articles of our Constitution, like the Articles relating to a common Citizenship (Part II) and Articles 15, 16 and 29(2).

(v) Whether to be spiders, bees, or artists

A spider conducts operations that resemble those of a weaver, and a bee puts to shame many an architect in the construction of her cells. But what distinguishes the worst architect from the best of bees is this, that the architect raises his structure in imagination before he erects it in reality. At the end of every labour-process, we get a result that

already existed in the imagination of the labourer at its commencement.

— Karl Marx (*Capital, Vol. I, Chap. 7, Pt. 1*)

We are free. We can become spiders to ‘spin dirt and poison’ out of our entrails; we can become bees to act in instinctive routine, as they have done over all the times gone, for own benefits; or we can become artists in order to shape our destiny with creative vision. We are free. We are free to ascend the *dharmaratha* for actions; we are free to calculate the gains and losses till we exist here. We are free to become non-thinking clod, or activists. We are free to make Krishna as our guide, or the Devil as our mentor. We are free.

(vi) Polity, politics and people’s Duty

The edicts on the walls of our Parliament underscore the sanctity and nobility of the society’s political pursuits compendiously called ‘polities’. Krishna was Himself a great politician whose politics illustrate the best in politics. Acharya Chanakya stressed on the egalitarian objectives in the art of managing public affairs. Acharya Kautilya said in his *Arthashastra*:

प्रजासुखे सुखं राज्ञः प्रजानां च हिते हितम्
नात्मप्रियं हितं राज्ञः प्रजानां तु प्रियं हितम्

(“In the happiness of the subjects lies the king’s happiness, in their welfare his welfare; what pleases himself the king shall not consider good but whatever pleases his subjects the king shall consider good.” from *Message*)

‘Polities’ becomes dirty when we play dirty games. Under our Indian tradition, ‘politics’ is the *Rajdharm* that casts non-negotiable and non-shifting Duties on the members of a democratic society to work for the weal of all by complying with the demands of *Rajdharm*.

If the ‘politicians’ of these days are feared and looked down upon, it is because our people have been constrained to judge them that way. They have been weighed, and found wanting. But we hope that better days are ahead.

ON OUR POLITICAL SYSTEM

The people — the people — are the rightful masters of both Congresses, and courts — not to overthrow the Constitution, but to overthrow the men who pervert it

—” Abraham Lincoln, [September 16-17, 1859]

(1) If our Parliament goes on *Shavashana*, it can see its Plight

It is said that when Charles II (1630 – 1685)¹ ruled England, parliament was dissolved for many years, and the king ruled the realm with the cabal of advisors one of them was the most deceitful and crafty the Duke of Buckingham. Someone who saw that government at work, observed:

“Who rules the kingdom?” “The king.” “But who rules the king?”
“The duke.” “Who rules the duke?” “The devil.”

Once I was absorbed thinking about the ways our government worked. I heard two birds twitter in the bush on the roadside. They seemed to say:

“Who rules our country? Our Parliament”.

Who rules out Parliament? The Cabinet under the dictatorship of the Prime Minister.

Who rules the Cabinet? The MNCs and the syndicate of the foreign investors, and the domestic calculators.

(2) Parliament’s decline both in England and India : a fleeting overview

(a) In England : We know that the Glorious Revolution of 1688, and the Act of Settlement, of 1701, led to the establishment of the supremacy of parliament. One of its committees evolved into the council of ministers from which grew another body, tinier in form but mightier in power, called ‘cabinet’. The institution of ‘Crown’ emerged to make the king and the ministers close friends and strong collaborators. The King was glad as the executive government’s activism on the globe enriched the country, and made the Crown glamorous by helping it to become a great imperial power. This domination by the executive government was initially resisted by parliament, but it got reconciled to its destiny under the new despotism of the cabinet. After World War II, the grandeur of parliament further diminished when the executive government virtually sold itself to the USA where the corporations rule. The decline of parliament began with the fast onset of neoliberalism. Thatcher and Reagan were influenced by the ideas of Milton Friedman and Feldstein, and many others who shared the ideas that worked for the dominance of the market forces. Their thesis pleaded for the roll back of the activities of the State. Monetarist and supply-side policies came to dominate. The technocratic structure subjugated other institutions. All these increased the might of the international high finance, and the MNCs, and also of the ‘high net worth’ individuals. The idea of ‘social justice’ and ‘equality’ lost relevance. This process began in the forties, and acquired great momentum after the election of Margaret Thatcher in 1979 as the Prime Minister of the United Kingdom and a year later, of Ronald Reagan as president of the United States. Bertrand Russell had highlighted, in his letter to Maurice Amos, the decline of Parliament by adopting the principle of the proportionality with reference to the pages of a book on the British constitutional law!

“I am very much interested in what you say about your book on the British Constitution, and especially amused that you had written 46,000 out of the 50,000 requisite words before you reached Parliament. Parliament has become a somewhat unimportant body. In the 19th century the Prime Ministers resigned when defeated in parliament until Gladstone altered the practice; now by the threat of dissolution they terrorize Parliament.”³

(b) In India : Writing about our Parliament in the early years of our Constitution, Granville Austin observes⁴:

“Parliament has ‘immense powers’ and ‘functions within the bounds of a written Constitution’ True at any time in theory, the assertion’s accuracy as regards Parliament’s service to the seamless web depended upon the time it was made. The first Speaker, G. V. Mavalankar, built Parliament ‘as an independent institution not to be

seen as an extension of government or of party' — ideals running counter to a number of the nation's cultural traits. Nehru supported him. ."

Nehru was assertive and dominant, but he respected our Constitution, and allowed Parliament to have its way as constitutionally conceived. Nehru wrote (Chapter 193 of *Glimpses of World History*) on August 6, 1933 about the circumstances which wrought Parliament's decline. He even quoted Harold J. Laski: "Our government has become an executive dictatorship tempered by fear of Parliamentary revolt." Even other members of our Constituent Assembly carried this worry in their mind. The plight of our Parliament has been protrayed in Chapter 22 of this Memoir; see pp. 318-332.

(3) The Prime Minister, the Sun or the Cipher

As the British constitutional history shows, the Prime Minister always tried to increase his powers, and role. The monarch had his own reasons to be support the Prime Minister. My study of the British constitutional history proves that the culture of the executive government, whether in the 17th century or in the 21st century, has been the same: to acquire great powers by means fair or foul. Historical circumstances helped the Prime Minister emerge very powerful and domineering person. The institution of the Prime Minister even become autocratic as the parliament failed to realize, and assert, its powers.

He could become imperious by threatening the dissolution of the House forcing the members to go to the hustings to try their luck again. In normal course there is nothing to fear facing again and again own people. Frequent elections are often good as people have better knowledge of the political systems at work, and also as the representatives are made more accountable and responsive to people. Besides, if someone is good and deserving in the eyes of people, there is no reason to get worried in facing fresh elections. The real reason is their fear psychosis as they are not sure to get re-elected as they know they have not endeared themselves to their people. In this game of self-preservation, the persons belonging to different political parties, otherwise at loggerheads, shake hands to come together! But, why should they tremble to face re-election? why should elections require money, and that too so much? I have suggested a model for selecting persons for elections where expenditure would be just zero (see Chapter 22, p.338).

Why has our Parliament failed in controlling the 'cabinet' effectively? Why should we allow situations to emerge when the great institution of parliament becomes non-functional. Things are bound to become worse if we allow the 'corporations' to dominate. It is not difficult to see why the Big Business is so happy with the Executive Government. The dominance of the Executive Government helps the mighty international investors, and sharp operators to have their ways. Democracy languishes, and 'Constitution' is made a mere scarecrow. We must realize that we all are on trial before the Bar of History: a waiting verdict.

(4) The extraneous quest: All for the Holy Grail, the FDI

It is shocking to see how 'sovereignty' is privatised in terms of the Bilateral Investment Treaties for obtaining more and more of FDI, and higher and higher

GDP, without measuring their long-term effects on our nation's interests, and cultural values which it has cultivated so assiduously. This craze has been so glamorously romanticised, and so assertively promoted, that, not to say of our Government, and the other minions exercising power over us, even our Supreme Court has fallen in love with it. The *Vodafone* Judgment⁵ makes a clear departure from our Constitution's mission of a Welfare State, and accepts, in its effect, the neoliberal paradigm, most clearly expressed in its zest for FDI from tax havens and secret jurisdictions thus benedicting an opaque system of global fiscal operations dear to the neoliberal thinkers. I have heard the paean to the FDI over all the years I dealt with the Indo-Mauritius Tax Treaty Abuse Case [*Union of India & Anr. Vs. Azadi Bachao Andolan & Anr. (2004) 10 SCC 1*]. I heard our Government's passionate pleas for this Holy Grail (FDI) that the then Solicitor-Generals and the Attorney General had made. I made my research wading through the newspapers pertaining to years 1980 to 2000. I discussed with many who mattered, including Dr Manmohan Singh. They said that without FDI, our country would not survive; without FDI everything would be lost.

The judicial logic in the *Vodafone* judgment is just a categorical syllogism that runs thus: the *major premise*: what promotes the incoming of the FDI is good; the *minor premise* : that the Income-tax Department's action would obstruct its incoming; the **conclusion**: the Department's action against Vodafone was wrong. But it is difficult to appreciate this syllogism as its major and minor premises are wholly extraneous to the Income-tax Act, 1961. When the courts decide issues extraneous to the statute, the decision brings to mind Justice Holmes said in his classic dissent in *Lochner v. New York*⁶:

"This case is decided upon an economic theory which a large part of the country does not entertain. If it were a question whether I agreed with that theory, I desire to study it further and long before making up my mind."

To reach the conclusion, our Hon'ble Supreme Court, in *Vodafone*, justified the labyrinthine corporate structuring with reference the medieval ideas of the Church, and ignored the 'soft structure' of the egalitarian ideas at the heart of the Constitution Bench decision in *McDowell & Co.*⁷, and allowed the 'corporation' to wear impregnable structure that precludes 'see through'. That judgment has been undone through a retrospective legislation. I had sent two letters suggesting retrospective legislation to then Finance Minister. You may read them at my website www.shivakantjha.org.

(5) FDI for whom ? for what?

Joseph Stiglitz has an undoubted authority to speak on the relevance of FDI, and he has posed serious embarrassing questions about it in his *Globalization and its Discontents*. Some of his comments deserve close study. Stiglitz says (pp. 71):

FDI " often flourishes only because of special privileges extracted from the government..." "The foreign direct investment comes only at the price of undermining democratic processes. This is particularly true for investments in mining, oil, and other natural resources, where foreigners have a real incentive to obtain the concessions at low prices." "There is more to the list of legitimate complaints against

foreign direct investment. Such investment often flourishes only because of special privileges extracted from the Government.”

It is time for us to consider this just for FDI. The rich would get richer, but the **Consolidated Fund of India** would suffer. In terms of Article 266, all revenues, go to the Consolidated Fund of India; and are to be spent in accordance with our Constitution’s provisions, and under a close Parliamentary control. Such resources are under trust to meet expenditure for public cause. FDI, on the other hand, comes and goes for the corporate benefits, and the High Net Worth Persons. Clouds are formed in India but they rain elsewhere!

(6) Learning from the Treaty of Allahabad

Through the WTO Treaty, the BITs (Bilateral Investments Treaties), and other trade pacts they have already succeeded in making two systems in one country, as had been done when we were under the servitude of the East India Company. The WTO Treaty, the DSB of the WTO, the overriding provisions in the BITs and other regional trade pacts have established tribunals at the international fora to decide the disputes raised under those treaties. The jurisdiction of our domestic courts stands ousted.

What I see, takes me to my undergraduate days when I had read the following lines, written by my teacher Dr. R.C. Majumdar in the *Advanced History of India*:

“In the meanwhile a new element had been introduced by the establishment of the Supreme Court in Calcutta, in 1774, by virtue of the Regulating Act. This court, established by the Crown and consisting of a Chief Justice and three Puisne Judges, was vested with jurisdiction over British subjects only,..... The legal principles and procedure which they followed were foreign to India and extremely vexatious.”
(p. 789)

We have witnessed in the recent years the thrill of our Executive Government on entering into the WTO Treaty, the Indo-US Nuclear Deal, and the numerous Bilateral Investment Treaties (BITs). All these treaties were signed through an opaque system that precludes Parliamentary deliberations, and deprives our common people to assess the effect and impact of the obligations by which our nation becomes bound. Such morbid occasions call to our mind the Treaty of Allahabad which Emperor Shah Alam II signed without understanding the terms which led to the establishment of the power of the East India Company at the wreck of the Mughal Empire in India! In 1765, the Treaty of Allahabad granted the Diwani of Bengal, Bihar, and Orissa to the East India Company. I wish you read the first few lines of that Treaty of Allahabad to realize how foolishly the Emperor allowed himself to get trapped by the compradors, go-getters, hirelings and harlots who thronged around him. The terms were couched in ambiguous and imprecise words which could be made to mean whatever the Company Bahadur wanted them to mean in order to promote its sinister interests. Our Government did no better when one of its ministers signed the WTO Treaty in Marrakesh (in Morocco) on 15 April, 1994. The said Emperor reaped the consequences of his deeds but his story has ceased to matter as he and his Empire are

now down in the dustbin of history. What our Government did in 1994, and what it keeps on doing over all the years thereafter are the matters for our citizenry to deliberate. I wish time is not far when such treaties would be challenged before our Supreme Court on the grounds that our Executive Government entered into such treaties without competence as it transgressed mandatory constitutional restraints (see p. 295 of this Memoir).

(7) Parliament at work

Shri Bimal Jalan (*The Future of India* Chapter 1) has drawn our attention to a fact that is of great concern for us. He says: "The domicile requirement of candidates for Rajya Sabha elections has been removed. Member of the Rajya Sabha no longer have to be residents of the state that elects them." This feature becomes most worrisome when most "parties are now characterized by arbitrariness, haphazardness, lack of deliberative purpose and tolerance for corruption." His critical examination of our polity shows that "the ordinary people of India are disenchanted with the working of the political system."

After the 2004 general elections, the Congress emerged as the largest political party. We thought that its Chairperson, Smt. Sonia Gandhi, would be made the Prime Minister of India. The nation was surprised when Smt. Gandhi wanted Dr. Manmohan Singh to be made the Prime Minister. Dr. Singh had never succeeded to win a Lok Sabha seat. He had been elected to the Rajya Sabha in 1999 from Assam, and was re-elected later from that State only to the Rajya Sabha. He was administered oath of the office of the Prime Minister on 22 May, 2004.

It is not good for democracy that a person who fails to acquire the people's confidence to get himself elected to the Lok Sabha (our House of People), becomes the Prime Minister ! It is strange that the go-getters bend the norms of constitutional propriety by resorting to legalese, and hyper-technical interpretation of the words in our Constitution. This practice breeds 'democratic deficit' in government which, interacting with many other degrading factors, produces 'moral deficit' that breeds scandals and scams.

I respect Dr. Singh for his humility that I have admired in this Memoir (see p. 347). I have nothing against the Congress Party for which I have had words of high admiration (Chapter 3, also at page 451). But I have expressed my ideas on this episode so that my ideas may get noticed, and considered, so that if ever again similar situations occur, we must act with vigilance and prudence.

True, our Constitution does not debar one from becoming the Prime Minister if he is not a member of the Lok Sabha. But to allow someone, not elected to Lok Sabha, to become the Prime Minister, is to wreck the democratic spirit of our Constitution. Art. 74(1) provides that "there shall be a Council of Ministers with the Prime Minister at the head to aid and advise the President who shall, in exercise of his functions, act in accordance with such advice." The Members of the Lok Sabha are effectively accountable to 'We, the People'. The heart of our nation throbs only in the Lok Sabha (*lok* = people), not in the Rajya Sabha where the members go to represent our Constitution's federal constructs, and the interests which deserve appreciation and distinction even in polity. But here the limited point is: whether the decision to make someone the Prime Minister, holding

seat only in the Rajya Sabha, accords well with the Constitution of our country? Even if at a particular point it is felt that the needed jewel can come only from the Rajya Sabha, it is prudent to ensure that he is elected to the Lok Sabha soon. When Mrs. Indira Gandhi became the Prime Minister of India in 1966, she was a member of the Rajya Sabha. She knew that the constitutional propriety demanded her to get elected to the Lok Sabha. The norms of the democratic propriety and constitutional morality were obeyed. She 'was elected to the Lok Sabha soon thereafter' which 'shows that it is considered desirable that the Prime Minister should belong to the Lok Sabha.'⁸

The Congress had fought the 2004 election in which Smt. Sonia Gandhi was the leader under public eyes. She appeared to us as the possible Prime Ministerial candidate. It was not proper even for her to back out from accepting her responsibility by nominating someone else. If such things happen, our polity can just become the fiefdoms of some arbitrary satraps.

(8) The Role of Parliament : A topic revisited

Over all these days, we have heard passionate panegyric being sung in favour of Parliament in order to run down people's protest outside Parliament. I do not want to comment on the role of Parliament as illustrated by the realities of our day. It is time to make Parliamentary institutions work for a genuine democracy rich in ethical values.

Lord Hailsham in his memoir, *A Sparrow's Flight*, bewailed at the plight of 'Parliamentary government, and of democracies' in the words which deserve to be pondered over (at p. 128):

"Like many others before me, I have often reflected on the weaknesses of parliamentary government, and of democracies in their differing forms, the Weimer Republic of Germany, the Third Republic in France, the hesitations and vacillations of our own constitutional governments under different prime ministers and owing allegiance to differing political parties and various political ideologies. Democracy at work is not invariably inspiring example in this or any other age, until, like Winston Churchill, engaged on the same quest, other types of political authority, one comes to compare the blunders and villainies committed, with very exceptions the world over, by other regimes ruled by other types of political authority."

If you go through Chapter 22 of this Memoir, you will realize that Winston Churchill and Lord Hailsham had good reasons to express their worries. We in India are more worried about our parliamentary democracy as it is seen at work. Superbly democratic Weimer Republic (1919-1933), and its great Constitution died slowly but certainly because of growing corruption, ever-increasing public distrust, and its incompetence. The Republic survived on a ventilator till Hitler drove it off into a limbo even without shredding its Constitution to pieces. The way the Weimer Republic yielded place to Hitler recalls the way the Roman Republic ended in the ancient times (see Chapter 21, pp. 303-310). The Third Republic in France had its tragic trait in allowing the emergence of a wide cleav-

age between the people and those who wielded powers. 'Democracy' is good, 'Parliament' is great only when they create, and come from, true democratic ethos in which justice, equality and accountability remain uncompromised. I have written with heavy heart on 'democracy' and 'parliament' in Chapter 22 of this Memoir. I would tell all those who write incessant panegyric for our Parliament to read the following tiny extracts from Chapter 176 of Nehru's *Glimpses of World History*:

"The conflict between capitalism and democracy is inherent and continuous; it is often hidden by misleading propaganda and by the outward forms of democracy, such as parliaments, and the sops that the owning classes throw to other classes to keep them more or less contented."

In democracy all institutions, including Parliament are on continuous trial. The question is: what sort of Parliament?, what sort of government?; and how do they respond to the wishes of people? Self-glorification is no good. When wide hiatus grows between government and people, the recitation of *mantra* of 'Parliamentary democracy' can never save the government from inevitable nemesis.

(9) The Political Parties revisited

We have seen over all the recent years that the Members of Parliament forget their promises made so generously to people at the election time. This lack of truthfulness undermines political morality, and helps the unworthy to reap undeserved benefits. With great perceptiveness, Bertrand Russell has observed:

"What hope is there for Parliamentary democracy when the leaders of a Party, upon achieving office, act in direct contradiction to their electoral promises? Those Labour Party members who do not like treachery have hitherto kept quiet in the interests of unity. But what is the use of unity in evil? The cardinal virtues in gangs of criminals are unity and loyalty. " ⁹

(10) The Strategies of the corporate *imperium*

In this neoliberal world, in which the MNCs rule, two strategies have been forged/invented by and for the corporate *imperium* with shocking and sinister effects:

- (a) the Treaties and international Agreements are being devised to subdue and subvert the constitutions of the nation States, and to trump all the laws which their Parliaments frame; and
- (b) a new prism has been invented so that the wielders of power can see things only as the prism makes them see: a technique that works in tandem with the device that manages even neurons as if they too were the subject of the Management by Objective (MBO), a technique that the B-Schools teach. The sinister effect of incessant false propaganda is gruesome.

(11) 'Reforms': the *Mohan Raag* that deceives

"Reforms are needed, I've always said that, but economic reforms with a human face that gives India's common man a real hope."

(Dr. Manmohan Singh).

But for a common man the words 'reforms' and 'human face', as occurring in this enticing *Mohan mantra*, are difficult to comprehend when they are considered in the context of the facts we see. The word 'reform' has continued since its dim past as a hallucinatory term more mysterious than the utterances of the three witches in *Macbeth*. 'Reform' can mean so many things to so many persons that it stands denuded of all its content. It often becomes a mere collocation in the abracadabra of the neo-liberal economists. Certain words do not mean, they are made to mean. I recall, in *Alice in Wonderland*, Alice has asked Humpty Dumpty: "The question is, whether you can make words mean so many different things". The reply was: "The question is, which is to be master?. That's all." **Now to 'human face'**. Who, still in his senses, believes is yet to know the 'human face'?

But what is there in 'face'? I do not intend to write on the art and craft of the 'imperial deception with a smiling face' that for long the imperialists had put on, and what the exploiters of the present-day Economic Globalization are accustomed to do. Jack Prelutsky composed a poem on a crocodile's smile. He cautions you against the guiles of a smiling, but crafty, crocodile which invites an unwary to "join him in the river Nile and swim with him a little while". Whilst the persuaders and advertisers are all around to tender such an invitation to all, it is for us to fall flat for it, or to spurn the damsel of delight as had been done in Keats's *Lamia* to expose the serpent masquerading as a lady of joy. Didn't Hamlet say: 'one may smile, and smile, and be a villain'? My reader, I assume, must have read about Bottom and Tatania in Shakespeare's *A Midsummer Night's Dream*. He must be remembering how Puck had played, whilst in a forest, a practical prank by turning Bottom's head into a donkey's. When Tatania waked up, she unhesitatingly planted all sorts of voluptuous kisses on his donkey's head (perhaps she did so as she saw in him a heart of gold where love over-brimmed for her). So, what is there in a face?

We want the 'human face' with 'human heart' that is never without the milk of human kindness. Let us appreciate, and catch the import of, the rhetorical question put in the Song of Solomon: "What mean ye that ye beat my people to pieces, and grind the faces of the poor?" It is said that Gandhi had given a talisman to the decision-makers in free India, it said: "Whenever you are in doubt or when the self becomes too much with you, ... Recall the face of the poorest and weakest man....".

**(12) Setting up political trajectory in our villages :
Steps towards the *Panchayati Raj***

European civilization is no doubt suited for the Europeans but it will mean ruin for India, if we endeavour to copy it.

Mahatma Gandhi, *Young India*, 30-4-'31)

Independence must begin at the bottom. Thus, village will be a Republic or panchayat having full powers. It follows, therefore, that every village has to be self-sustained and capable of managing its affairs even to the extent of defending itself against the whole world.

Mahatma Gandhi in the *Harijan* 1-7- '47.

Two movements must go on at the same time to achieve a sound and satisfactory political process (analogically as distinct and as integrated as the Earth's well known two movements going on simultaneously: 'rotation' that causes day and night, and 'revolution' that causes seasons): these get expression in —

- ◆ Steps to make the *Panchayati Raj* work effectively to achieve its ideals, and
- ◆ Steps to make our Parliament effectively mission-conscious, and accountable to our people.

Granville Austin has aptly appreciated the reasons Nehru had advanced to go ahead with the community development and *panchayati raj* programmes 'whose purpose may be said to have been integration through decentralization and unity through participation, in addition to their obvious aims of economic development and social improvement in villages. These programmes were to be the ideal combination of the grand themes of unity, democracy, and social revolution' [Granville Austin, *Working a Democratic Constitution* p. 167]. It was this high idealism that led to the framing of the Article 40 of our Constitution prescribing, as a directive principle for State policy, and to the organization of village *panchayats* to function as the units of self-government. Now the Part IX of our Constitution deals with the *Panchayat* by clarifying its role and prescribing its wide powers, and reach. Article 243G of our Constitution contemplates that this institution would play a role in 'the preparation of plans for economic development and social justice', and also in 'the implementation' of such schemes as are entrusted to the *Panchayat*.

As I have observed in Bihar, the institution has not worked well for many reasons, which include these: (i) the political parties do not allow people's participation at the grass roots levels as they fear that their monolithic and vertical power-structure, under the top-down command system, would suffer; (ii) the political parties love controlling power at the top because it delights their controlling caucus which in turn builds up a hierarchy of their Samurais (fighters) down the line to promote their powers, and to reap and distribute the ill-gotten gains; (iii) the transparency, natural under the *Panchayati Raj*, is disliked by all the beneficiaries of the Realm of Darkness which permit the crooks and looters operate unseen and undetected; (iv) the *Panchayati Raj*, if successful, would set afoot a system under which 'economic development' would get priority over the idea of the GDP-indicated 'economic growth'; (v) the 'corporations', the MNCs, their mentors, protégées and lobbyists want centralised government where things can be easily managed, and manipulated; (vi) the crooks and the criminals dislike the *Panchayati Rajas* they cannot afford to play their game under people's direct gaze, and also because they cannot build filters, shelters, hiding places, and Alsatias to escape being caught. Granville Austin correctly felt that the "State politicians resisted village power for fear of losing influence", as

the 'segmented structures and primitive institutions' of rural society 'could not generate a responsive and creative leadership'. Austin felt that these "same factors would continue to inhibit the development of *panchayats* and community programmes for years to come." [Granville Austin, *Working a Democratic Constitution* pp. 168-169]. It is our constitutional duty to make the Panchayati Raj work.

**(13) The Restructuring our polity :
The Gram Sabha-centric village Panchayats**

History tells us that the decentralization of powers makes a polity participative, accountable and shared. The best way to organize our polity is by an amalgam of the right measure of 'decentralization' through the rural republics that the *Panchayati Raj* aims to establish, and by the legitimate and purposive centrality through our federal structure: both to be integrated to work symbiotically with the strong Central Government, itself under strong constitutional restraints. It is easy to see how this model of political restructuring is in tune with our people's genius, and our long and rich traditions. The structure of our polity should be so designed as to make our villages the grass-root matrix of our economy, and the effective units in our democratic organization. Gandhi had told us in course of our Struggle for Freedom:

"Independence must begin at the bottom. Thus, village will be a Republic or *panchayat* having full powers. It follows, therefore, that every village has to be self-sustained and capable of managing its affairs even to the extent of defending itself against the whole world."
(*Harijan* 1-7- '47)

This vision was expressed by our Constitution in: its Article 40 says —

"The State shall take steps to organize village panchayats and endow them with such powers and authority as may be necessary to enable them to function as units of self-Government."

The Gram Sabha of the villages, and the Lok Sabha of our country, are essentially 'deliberative' assemblies'. The skill that can be learnt from the right functioning of the Gram Sabhas would surely stand us in good stead when our representatives go to function in our Parliament, and in other similar bodies. The *Panchayat* would provide a close and inter-active world for integrated cordial actions, where the participants can themselves see that what they reap are only the consequences of what they do.

The 'decentralization of powers', through *Panchayats*, would establish nearness between the wielders of power, and the people under their care. The absence of such a close bond between people and the Government would always imperil 'democracy'. J. Bronowski had aptly said in his *The Ascent of Man* (p. 435):

"We must not perish by the distance between people and government, between people and power, by which Babylon and Egypt and Rome failed. And that distance can only be conflated, can only be closed, if knowledge sits in the homes and heads of people with no ambition to control others, and not up in the isolated seats of power."

If the *Panchayati Raj* works to set up vibrant village republics, great socio-psychological changes would be brought about under our polity and governance. The possibilities of this great experiment in the decentralization of powers were recognised early. Our leaders had great expectations from these indigenous and village-centric political experiments. Amartya Sen and Jean Dreze have rightly noticed that the “ implicit belief, expressed in some writings, that government interventions are, by and large, guided by the demands of social progress is surely a gigantic folly.” They have recognised what can be done best: to supplement ‘reforms’ with a more active programme of social change going “hand in hand with an expansion of public initiative and social movements aimed at more widespread literacy, a stronger political organization of disadvantaged groups, and a more vigorous challenge to social inequalities, they would represent a real opportunity to transform village politics in rural India.” It is possible to develop good education in the villages only after involving the grass roots level institutions. I would endorse the view of Amartya Sen and Jean Dreze: “In most states, teachers are accountable to the Education Department, not to the village community. Official complaints have to go through complicated bureaucratic channels, and are particularly difficult for parents to understand.....” “Reforming the chain of accountability, and bringing the levers of control closer to the village community, are important means of improving teaching standards.” Socio-economic measures can work better if they are conducted under the local vigilance, supervision, control and audit. The authorities at the higher structural levels should only help, and supervise.

This system would make the Right to Know, granted under our Constitution, more effective. Besides, the participative political process would give our people the satisfaction of discharging public duties, and would also help them develop their skill better. We find in our villages many persons illiterate, but they are not unwise. I feel it is the time to trust our villagers’ wisdom. They are loyal to our country, and are patriotic: they are under no temptations to steal our country’s wealth to carry that to the tax havens and other dark destinations abroad. Let us structure our polity by giving it a creative touch best done by reposing trust in our people

(14) Political Parties and Democracy

The present system of elections facilitates party dictatorship. Parties are dominated by the persons whose supreme interest is just to remain in power somehow. Francis Fukuyama aptly said: “The mere fact that a country has democratic institutions tells us very little about whether it is well or badly governed. This failure to deliver on the promise of democracy poses what is perhaps the greatest challenge to the legitimacy of such political systems.” We know that political parties, by themselves do not guarantee the existence of ‘democracy’. We all know how the two political parties, holding a majority in the *Reichstag*, had worked only to destroy German democracy.¹⁰ We have seen how dexterously our watchers ditched us to rue our fate because we failed in maintaining eternal vigilance.

(15) Invocation to act

Tis in ourselves that we are thus or thus. Iago in Shakespeare's
Othello
Life's but a walking shadow; a poor player,
That struts and frets his hour upon the stage,
And then is heard no more: Macbeth in Shakespeare's
Macbeth

The above mentioned two quotes from William Shakespeare came to mind when I read Chapter 193 (The Failure of Parliament) of Nehru's *Glimpses of World History*. The framers of our Constitution knew what had happened to Parliaments in the West. So they devised our Constitution unique in many ways so that democratic control of polity is never subverted. Two points I mention:

- (i) our Constitution is made by our people under their own authority expressing their own WILL. It was not minted in the foreign office of some foreign power; and
- (ii) it grants not even iota of power to any of the creatures of our Constitution which is not subject to the limitations imposed by the provisions of the Constitution itself. No authority set up by it possesses any extra-constitutional power. Our Constitution has not issued the Executive a "blank check". I have summarized our 'constitutional fundamentals' in Chapter 21 at p. 295 of this Memoir.

These two fundamental principles are yet to be appreciated by our Parliament. It is high time for our Parliament to subject the Executive Government to its effective writ. For this 'party dictatorship' must go; for this electoral process be fair and democratic; for this the people of the political constituencies alone should decide who would go to Parliament to represent them; for this the Panchayats must play effective and aggressive role; and for this our people must have the 'right to recall' the representatives they elect.

I would end this Chapter with my invocation to our people (assembled in Parliament through their representatives), in the words of Jambavantha. The *Ramcharitamanasa* tells us how he could inspire Hanumanji to realize his great capabilities to do the great things in Lanka after crossing the ocean in search of Sita. The great Tulsidas tells us how this invocation was made. My invocation to Parliament is just my most humble call to everyone to act, act, and act with imagination and moral courage. I would end my invocation with the words which had an electrifying effect on Hanumanji inspiring him to do what he did.

कवन सो काज कठिन जग माहीं, जो नहि होइ तात तुम्ह पाहीं

(16) A Note on Charitra (Character)

India is essentially *karmabhumi* (land of duty) in contradistinction to *bhogbhumi* (land of enjoyment).

Mahatma Gandhi in the *Young India* of 5 February 1925

At school, I had read in the *Free India Reader* Book IV, Mahatma Gandhi's short essay on 'What the Students can do'. He had stressed that without good character a man always falls, and a system that he builds up always collapses. Anna is perfectly right in holding that our country can grow under conditions of social

justice and fairplay only if we succeed in establishing a corruption-free, and accountable polity. But it is not likely to happen if 'character' is lost.

I think it is worthwhile to consider what Anna means by 'character', and how it differs from the concepts, like "character," "duty," "will," hard work, and 'thrift' about which we read so much in the Victorian literature. We all have found good ideas stated by Samuel Smiles in *Self-Help* (1859). To the Victorians, 'character' provided traits which helped them to acquire more power and amass great wealth for the Victorian upper crust, and to evolve institutions and norms to protect and promote such gains. The general run of the fortunate Victorians considered it their 'duty' to build up an acquisitive society which never had the qualms of conscience at the abysmal inequality, inequity, and social injustice. The Victorian 'will', 'earnestness', 'hard work' were at work to promote an unjust society in which the corrupt power elite ruled, and suffering masses sobbed unnoticed and ignored. You may read H.G. Wells's *Tono-Bungay* (1909) in which "English society is seen as a large country house, with the lower classes concealed below stairs in the servants' quarters, while the upper classes enjoy life in the elegant drawing-rooms."¹¹ In the novel *The Man of Property* (1906), John Galsworthy portrays the Victorian upper middle class, "whom he saw as reducing everything to property values, including life itself....The story is centered on two pieces of 'property': a country house Soames is building for himself; and his wife Irene, whom he is losing to another man."¹² The political and economic leaders of the Victorian era entertained extremely ill-informed notions about certainties and assumptions (which we find also being shared by the fundamentalists of the present-day economic liberalism). I would conclude my reflections on the Victorian culture with certain words from *The Encyclopedia Britannica* (Vol. 29, at p. 81): "Many Victorians were as eager to read about crime as to read the Bible."

NOTES AND REFERENCES

1. Peter Watson, *A Terrible Beauty* p. 290
2. *The Encyclopaedia Britannica* Vol. 10, p. 594
3. Bertrand Russell, *Autobiography* p. 434
4. Granville Austin, *Working of a Democratic Constitution* p. 660
5. (CIVIL APPEAL NO.733 OF 2012): the Judgment delivered on January 20, 2012.
6. (1904) 198 U.S. 45
7. (1985) 154 ITR 148 SC
8. The reasons are thus stated: A well established convention in Britain has been that the Prime Minister should belong to the House of Common..... The House of Common is elected on the popular basis, reflected the public opinion more truly and faithfully than does the House of Lords, and plays a decisive role in the governmental process." M.P.Jain, *Constitutional Law of India* p. 134
9. Bertrand Russell, *History of Western Philosophy* p. 719
10. *The New Encyclopaedia Britannica* Vol. 20, p.121
11. Bernard Bergonzi in his article in *The Oxford Illustrated History of English Literature* edited by Pat Rogers (at pp. 403-404).
12. *ibid* p. 402