



Document:

Weakness and *Ahimsa* Cannot Go Together

Mahatma Gandhi

I do not want India to be a frog in the well, unaware of what happens outside the well. Jawaharlal and other leaders have said that we will not be hostile to any country. We shall have friendship for all including the British. Do they then want a world federation? As I said at the Asian Relations Conference, a world federation is possible of realization and in that case it would not be necessary for countries to maintain armed forces. Some countries today describe themselves as democratic but of course one does not become a democrat by simply saying so. What is the need for an army where there is rule by the people? Where the army rules the people cannot rule. There can be no world federation of countries ruled by armies. The military dictatorships of Germany and Japan had tried to inveigle various countries into friendship with them. But the deception did not last long. Today I look around and find *Ramarajya* nowhere.

People ask me if the rule of the sword and the bullet that prevails today is not the result of my teaching of truth and non-violence for thirty-two years. But does this then mean that for thirty-two years I have prevailed through lies and hypocrisy? Does it mean that the millions of people who imbibed the lesson of *ahimsa* from me have after

thirty-two years suddenly become liars and murderers? I have admitted that our *ahimsa* was the *ahimsa* of the weak. But in reality weakness and *ahimsa* cannot go together. It should therefore be described not as *ahimsa* but as passive resistance. But the *ahimsa* I advocated was not the *ahimsa* of the weak while passive resistance is only for the weak. Then passive resistance is a preparation for active and armed resistance. As a result the violence the people had been harbouring in their hearts has now suddenly erupted.

Our passive resistance has not been a complete failure. We have all but won our freedom. The violence we see today is the violence of cowards. There is also such a thing as the violence of the brave. ... America unleashed its atom bomb over Japan. That was the violence of the cowards. The non-violence of the brave is a thing worth seeing. I want to see that non-violence before I die. For this we should have inner strength. It is a unique weapon. If people had realized its beauty all the life and property that have been lost would never have been lost.

(Courtesy: Collected works of Mahatma Gandhi, Vol. 88, page, 273-74)

With New hope, New energy and
New commitment, We wish you all
a peaceful New Year 2024. - Ed.

Authority is Destructive

Huston Smith: I am Huston Smith, professor of philosophy at the Massachusetts Institute of Technology, and I invite you to a conversation arranged by the Blaisdale Institute of Claremont, California, with Krishnamurti, who was raised by Annie Besant and the Theosophists to be a teacher, and who, though he discarded the mantle of Theosophy, did indeed become a sage of our century, one whose voice is heard as much by the youth of today as throughout the world for the last sixty years.

Krishnamurti, maybe this morning I will have only one question which in one way or another I will be coming back to in various ways. In your writings, in your speaking, time and again you come back to this wonderful little word, lucid and lucidity, but is it possible living as we are in this confused and confusing world, torn by conflicting voices without and conflicting tensions within, with hearts that seem star crossed and tensions that never go, is it possible in such a life, in such a world, to live with total lucidity? And if so, how?

Krishnamurti: I wonder, sir, what you mean by that word 'lucid'. I wonder whether you mean clarity.

HS: That's what first comes to mind, yes.

K: Is this clarity a matter of intellectual perception, or is it a perception with your whole being, not merely a fragment of your being, but with the totality of one's whole being?

HS: It certainly has the ring of the latter, it's the latter.

K: It is not fragmentary, therefore it is not intellectual or emotional, or sentimental. And so is it possible in this confused world, with so many contradictions, and such misery and starvation, not only outwardly, but also inwardly, such insufficiency

psychologically, outwardly there are so many rich societies, is it at all possible for a human being living in this world to find within himself a clarity that is constant, that is true in the sense not contradictory, is it possible for a human being to find it?

HS: That's my question.

K: Your question. I don't see why not. I don't see why it shouldn't be found by anybody who is really quite serious. Most of us are not serious at all. We want to be entertained, we want to be told what to do, we want someone else to tell us how to live, what this clarity is, what is truth, what is god, what is righteous behaviour and so on. Now if we could discard completely all the authority of psychological specialists, as well as the specialists in religion, if one could really deeply negate all authority of that kind, then one would be relying totally on oneself.

HS: Well, I feel I may be right off, I am contradicting what you are suggesting because my impulse after you have said that it seems to you that it is possible to achieve this lucidity, my impulse is to ask you immediately, how?

K: Wait, sir.

HS: But you say, am I looking to authority if I do that?

K: No, no. What is necessary is the freedom from authority, not the 'how'. The 'how' implies a method, a system, a way trodden by others, and someone to tell you, do this and you will find it.

HS: Now, are you saying with this that it is an inappropriate question to ask you how this lucidity is to be achieved?

K: No, not at all, sir. But the 'how' implies that, the 'how' implies a method, a system. And

the moment you have a system and a method you become mechanical, you just do what you are told. And that's not clarity. It is like a child being told by its mother what it should be from morning until night. And therefore it becomes dependent on the mother, or the father, whatever it be, and there is no clarity. So to have clarity, the first essential thing is freedom. Freedom from authority.

HS: And I feel in a kind of bind, because this freedom is attractive too and I want to go towards that, but I also want to pick your mind and ask you how to proceed? Am I moving away from my freedom if I ask you how to proceed?

K: No, sir, but I am pointing out the difficulty of that word, the implication of that word, the 'how'. Not whether one is wandering away from freedom, or any other thing of that kind, but the word 'how' implies intrinsically a mind that says, please tell me what to do.

HS: And I ask again, is that a mistaken question, is that a wrong question?

K: I should think that's a wrong question, the 'how'. But rather if you say, what are the things, the obstructions that prevent clarity, then we can go into it. But if you say right from the beginning, what is the method - there have been a dozen methods and they have all failed, they have not produced clarity, or enlightenment, or a state of peace in man. On the contrary these methods have divided man; you have your method, and somebody else has his method, and these methods are everlastingly quarrelling with each other.

HS: Are you saying that once you abstract certain principles and formulate them into a method, this becomes too crude to meet the intricacies.

K: That's right. The intricacies, and the complexities and the living quality of clarity.

HS: So that the 'how' must always be immediate, from where one stands, the particular individual.

K: I would never put the 'how' at all. The 'how' should never enter into the mind.

HS: Well, this is a hard teaching. It may be true and I am reaching for it, and yet I don't know that it's possible - I don't feel that it's possible completely to relinquish the question how and everything.

K: Sir, I think we shall be able to understand each other if we could go a little slowly, not into the 'how', but what are the things that prevent clarity.

HS: All right, fine.

K: Through negation, through negation come to clarity, not through the positive method of following a system.

HS: Fine. All right. The negative approach, that is good.

K: I think that is the only way. The positive way of the 'how' has lead man to divide himself, his loyalties, his pursuits, you have the 'how' of yours, and the 'how' of somebody else, and the method of this - and they are all lost.

HS: Fine.

K: So if we could put aside that question, 'the how' for the time being, probably you will never put it, afterwards. I hope you won't.

HS: Well, we'll see.

K: So what is important is to find out what are the obstructions, the hindrances, the blocks that prevent clear perception of human anxiety, fear, sorrow, and the ache of loneliness, the utter lack of love and all that.

HS: Let's explore the virtues of the negative. What are these obstacles?

K: Now, first of all I feel, there must be freedom. Freedom from authority.

HS: Could we stop right there on this matter of authority. When you say we should renounce all authority, it seems to me that the goal of total freedom and self reliance is a valid one, and yet along the way it seems to me that we rely, and should rely, on all kinds of authorities in certain spheres. When I go to a new territory and I stop to ask the filling station attendant which way to go, I accept his authority as he knows more about that than I do. Isn't this...

K: Obviously, sir, the specialist knows a little more than the layman, the experts whether in surgery or technological knowledge, obviously they know much more than any other person who is not concerned with that particular technique. But we are considering not authority along any particular line, but the whole problem of authority.

HS: And in that area is the answer to understand the areas in which there is specialised authority, which we should accept, and where...

K: And where authority is detrimental.

HS: Yes.

K: Authority is destructive. So there are two problems involved in this question of authority: there is not only the authority of the expert - let's call him for the moment - which is necessary, but also the authority of the man who says, psychologically I know, you don't.

HS: I see.

K: This is true, this is false, you must do this, and you must not do that.

HS: So one should never turn over one's life to...

K: To anybody.

HS:... to anyone else.

K: Because the churches throughout the world, the different religions, have said, give your life to us, we will direct, we'll shape it, we will tell

you what to do. Do this, follow the saviour, follow the church and you will have peace. But, on the contrary churches have produced terrible wars. Religions of every kind have brought about fragmentation of the mind. So the question is not, freedom from a particular authority, but the whole conceptual acceptance of authority.

HS: Yes. All right. I think I see that and one should never abdicate one's own conscience.

K: No, I am not talking of conscience. Our conscience is such a petty little affair.

HS: Well may be we are thinking about conscience - I am thinking about the conscience of how I should live my life, how I should live.

K: No, we started out to say, asking the question, why is it man who has lived for two million years and more, why is man not capable of clear perception and action? That is the question involved.

HS: Right. And your first point is that it is because he doesn't accept the full responsibility...

K: I don't say that. No, I haven't come to that point yet. I am saying that, as we said, we must approach this problem negatively. Which means I must find out what are the blockages.

HS: Obstacles.

K: Obstacles which prevent clear perception.

HS: Right.

K: Now one of the major blocks, or hindrances, is this total acceptance of authority.

HS: All right. So be your lamps unto yourself.

K: That's right. So you must be a light to yourself.

HS: Very good.

K: To be a light to yourself you must deny every other light, however great that light be, whether it be the light of the Buddha, or X Y Z.

(To be continued)

COP: Protecting the Lifestyle of the Well-Off For the 28th Time

Arun Kumar

Reports are that in 2023, there have been times when the global temperature has been higher than 2 degrees Celsius above the pre-industrial level. This level of warming has been flagged as causing irreversible change. Already at the current average annual temperature level of about 1.3 degrees Celsius above pre-industrial levels, the number of extreme weather events has dramatically increased, resulting in growing distress, especially for the poor.

COP28 (Conference of Parties) needed to plan for reversal of average global temperature from its current levels. But this does not seem to be on the agenda. A mitigation fund with paltry contributions has been proposed. The steps being discussed and the urgency required to reverse the rising average temperatures are not visible.

The challenge today is not just global warming but the multi-faceted environmental pollution. Oceans and fresh water bodies are being severely polluted. There is impact on marine life and contaminants (like micro-plastics and chemicals) are entering human food chains. Heavy chemicals and elements are damaging various human organs with consequences for human health and leading to the proliferation of diseases like cancer.

Production, consumption and pollution

Energy is required for the production of goods and services, their distribution and finally for consumption. Different forms of energy are available like electricity, wind power, burning coal, gas and petroleum products. Some are more polluting than others. For instance, burning fossil fuels like coal and diesel pollutes more than wind power or electricity from solar panels. Solar panels

directly convert the sun's rays into electricity while wind and hydro-electricity come indirectly from solar energy. These sources directly produce little or no greenhouse gases. However, production and setting up of solar panels and wind turbines also results in pollution.

Fossil fuels are stored green matter over millions of years and their burning produces greenhouse gases. Since they are easily available, their consumption has risen dramatically over time and that is leading to a massive increase in greenhouse gases in air and global warming. So, one is talking of what is less polluting and which releases the least amount of greenhouse gases.

Currently there are two problems. First, most of the energy is being derived from the wrong kind of sources, which pollute more than others and produce more greenhouse gases. Second, consumption is on the rise, so more energy is required. Consumption is of all kind of goods and services. They have to be produced, transported, distributed, etc. – all of which requires energy.

Further, as production becomes more concentrated, there may be economies of scale but more transportation and distribution are required. It is visible in the long supply chains and distribution networks. So, in spite of greater efficiency due to use of more energy efficient methods of production and transportation, overall energy consumption has continued to increase.

Essential and luxury consumption

Production and distribution is related to consumption by humans for improvement in their welfare. A part of the output is for investment, to

enable production to both continue and increase. Another part of consumption is in the form of public goods which are jointly consumed, like army, parks, sewage and public health. So, to address the problem of pollution, one needs to address private consumption, government consumption and investment.

Consumption may also be characterised as essential and inessential. Food, water, clothing and housing are essential for life. Agriculture and livestock rearing which produce food are blamed for much of release of greenhouse gases. Apart from curbing waste in production of food, nothing much can be done about it. Public services are required for a civilised existence of citizens, so here too one can try to provide these more efficiently but these are required.

What can be curbed is inessential and luxury consumption. This has become huge amongst the well-off, government bureaucracy and the corporate sector, and can be curtailed to reduce pollution. Unfortunately, consumption has become the yardstick of standard of living. Vacations, eating out, travel, throwing away usable things, discarding rather than repairing gadgets, etc., have become a part of the practice of the well-off.

Due to the demonstration effect from rich countries, the well-off in the developing world have copied wasteful consumption. The poor and the middle classes in the developing world try to emulate these consumption patterns. Advertising is used by producers to induce more consumption, not only among the well-off but among the less well-off and the poor. They are euphemistically defined as aspirational or those who want to consume more and can be induced to consume more in the future.

Consumerism has become ingrained in life. It stands for consumption for the sake of consumption. Tremendous amount of waste is

generated in producing and throwing away things or in fancy packaging, luxury five star living, etc. The poor are not a part of such behaviour.

Skewed consumption pattern

So, who is consuming how much and therefore responsible for how much of the pollution?

The Delhi socio-economic survey of 2018 can be used to get the approximate consumption pattern. Translated to the all-India level, it suggests that 90% of Indian families spent less than Rs 10,000 per month. So, about 120 crore Indians consumed less than Rs 2,000 per month. This gives an annual consumption of less than Rs 28.8 lakh crore. 98% of the families consumed less than Rs 20,000 per month. Assuming an average of Rs 15,000 per month of family expenditure for those between the 90% and 98%, each individual in this bracket was consuming Rs 3,000 per month. Their consumption would be Rs 3.8 lakh crore. This 98% has little spare resources to waste or spend on luxury consumption.

Only 2% of the families in India were rich and consumed the maximum. In 2018-19, national income was about Rs 167 lakh crore. Of this about 58% was private consumption amounting to Rs 96.9 lakh crore. Subtracting the consumption of the 98%, the consumption of the top 2% turns out to be Rs 64.3 lakh crore or Rs 23.8 lakh per person. Their consumption was 66.36% of the total and they are the real polluters because they have the money to spend on luxury items and inessentials. The picture today will not be very different from that in 2018.

The poor in India are also recyclers of a lot of the waste produced by the well-off. So, their net environmental impact is smaller than implied by their consumption. The poor do cut corners and pollute but that is done for survival and not

for luxury. Finally, the poor are also forced to produce cheaply for the developed world.

The consumption of the well-off requires a lot of imports of automobiles, electronic items, specialty items, etc. Even when these are produced in the country, a lot of their parts are imported. To balance trade, exports are required. India exports a lot of the low and intermediate technology products like, textiles, leather goods and toys where it faces competition from the other developing world nations. So prices have to be kept low (competitive). This is achieved by sacrificing environmental standards and paying workers low salaries. In other words, the developing world accepts a polluted environment for the sake of the developed world.

COP not discussing the real issue

The 28th Conference of Parties is taking place but the real step required, namely, cutting consumption globally, is not on the agenda. Use of cleaner energy sources will help but it will not be enough.

There is the free rider problem – each nation expects others to take the steps required. The rich nations are blaming India and China for being the big polluters now. The latter blame the rich nations for the historical accumulation of greenhouse gases and is asking them to pay for it and to make available new technologies to reduce production of greenhouse gases. The rich nations are not offering to lower their per capita consumption. They see this as a lowering the standard of living their people. The developing nations like India are not offering to pursue policies that would reduce the consumption of the well-off. They see this as a reduction of their growth rates.

Both the rich and the developing nations are protecting the interest of their corporations and their well-off whose growing consumption leads

“I know village economics. I tell you that the pressure from the top crushes those at the bottom. All that is necessary is to get off their backs.”

**- MK Gandhi. Press Reports,
June 30, 1944**

to higher profits. Both want to persist with growing consumption of their elite, corporate culture and wasteful governments. This shows where the real political power in the World lies – the slogan 1% against the 99% is apt. The cost of deliberate obfuscation falls on the marginalised – whether the poorer nations or the poor in each of the countries.

Conclusion

In brief, climate change and growing pollution are upon us and imposing heavy costs on all. Yet, the political will to take the drastic steps required is missing. The time for taking incremental steps is over. The fear that cutting consumption and production will reduce welfare for the elite and reduce employment is unfounded because these can be achieved by cutting social waste and inessential consumption which will enhance everyone's well-being by reducing pollution. A study from the SA showed that in 1980, 50% of the production was a waste. For India, in 2006, 25% was a waste.

So, for COP to make progress, the agenda of both the rich nations and the ruling classes of the developing countries has to be cutting wasteful consumption.

(Courtesy: The Wire, 03.12.2023)

Arun Kumar is the author of Understanding Black Economy and Black Money in India.

Khadi, from Fabric of Liberty to Enslavement

Tushar Gandhi

Bapu (M.K Gandhi) diligently resurrected a murdered traditional craft of India and turned it into a weapon in his non-violent war for freedom. A war he relentlessly waged against the colonial power that had enslaved India through economic subjugation more than with military might. The khadi Bapu revived broke the back of the British industrial might and brought the empire to its knees. Of course, there were other factors but khadi became the icon of India's freedom – truly its fabric of liberty.

In reviving khadi, initially as a fabric to clothe his people, he asked them to burn and forsake all their British-manufactured clothing and consumables. Through that enterprise, he believed he would found the industry that would revitalise villages and make them thriving economic powerhouses of a free India. His model of khadi and village industries would be built on human skill and labour, embracing the compassionate principle of salvation of all, *sarvodaya*, beginning from the very bottom and slowly building up to massive, tall peaks, the mode for welfare of all, *antodaya*.

Independent India needed to manufacture and provide essential consumables to its masses. As an agrarian civilisation, it needed to provide food to its masses too. Farmers based in its villages provided the staples and filled its granaries even when they were dependant solely on the monsoon. The prosperity of ancient India was due to its agriculture and the high-quality work of its artisans.

Farmers and artisans were the foundational blocks of Bapu's concept of khadi and village industries. Villagers would grow the variety of food required by its people. Artisans and craftspersons would manufacture in every home in every village,

and all of them would collectively spin khadi in their spare time and some of them would weave the yarn into fabrics for collective use. Those living in forests would harvest their produce and sell it to be converted into consumable products. This was a model of a sustainable, ecological, economical and inter-dependent industry that was truly of the people, for the people and by the people. It would be a thriving nation formed by a union of many democratic self-sustained village republics. There would be no poverty, no starvation and no idleness (read unemployment).

The huge industrial public sector India built in its initial years and its protective policies were required in the republic's infancy. Their prolonged existence led to corruption and the stifling of the entrepreneurial spirit, an unfortunate fallout, because the protective policies were not done away with when they should have in the early 1970s. But the strong public sector that provided mass employment to its people was also required; it enabled the creation of at least three generations of Indians who benefited from the job security and based on it were provided with subsidised world-class education, at the school as well as undergraduate and post-graduate levels.

Unfortunately, independent India did not as diligently pursue the idea of khadi and village-based industries.

Bapu wished for khadi and village industries, the tools for Gram Swaraj, to remain free and unfettered for use by the people as a means of *antodaya*, the emancipation of the last and least individual in society, the *Daridra Narayan* he served his entire life. Today, KVIC is just a vehicle for the prime minister's PR. He frequently poses with the charkha, which Bapu used as a

Gandhi Smarak Nidhi

Diamond Jubilee Celebration

Mahatma Gandhi was gone from our midst when we needed him most, when our freedom was in its very infancy. A week after his martyrdom on 30th January 1948, while the nation was still buried in grief and anguish, the Working Committee of the Indian National Congress met urgently in New Delhi to try and find ways to perpetuate his memory and to carry on the work which he had started for the upliftment of the masses.

One of the historic decisions taken at that meeting was to create a national trust in his memory-to be called the Gandhi Smarak Nidhi, i.e., the Gandhi National Memorial Trust.

At the time of its establishment, the objectives and purposes of the Fund were clearly defined in the Trust Deed. The Fund continues to work towards achieving these objectives and has collaborated with regional centers, village service centers, and other related organizations to fulfill its goals.

Suggested programs for the 75th anniversary of the Gandhi Memorial Fund:

❖ Continuously promote and innovate on all

↳ weapon in Satyagraha and the vital tool of Gram Udyog. KVIC produces a corrupted khadi utilising machines, the fabric adulterated with man-made synthetic fiber, polyvastra. Now KVIC has restricted the use of khadi and khaddar as a brand and created an un-Gandhian monopoly.

Swadeshi is no longer an ideology but a brand exclusively owned by India's premier corporation.

KVIC has done the unthinkable – sold off the soul of India barely 75 years since Bapu was murdered. *Hey Ram!*

(Tushar Gandhi, great grandson of the Mahatma, Reach him here: gandhitushar.a@gmail.com.)

the activities mentioned in the Trust Deed, aligning them with current relevance and the financial capacity of the Fund.

❖ Establish a broad network of collaboration. Initially, the Fund had contact with over 2000 creative organizations. Fund will re-establish active connections with them.

❖ Select and partner with 75 organizations across the country that are engaged in creative work aligned with Gandhi's principles. Organize Gandhi Memorial Diamond Jubilee lectures at these locations and honor these organizations with certificates and memorabilia.

❖ Revive Gandhi Memorial Gram Seva Kendras (village service centers) and Gandhi Houses, and initiate plans for agriculture, rural development, and advocacy.

❖ Launch a YouTube channel based on Gandhi's philosophy and spread innovative ideas through it.

❖ Strengthen the financial position of the organization through collective efforts. Enhance the pace of youth camps and student camps.

❖ Publish a special commemorative edition on the 75th anniversary of the Gandhi Memorial Fund's achievements.

❖ Organize a conference of institutions and organizations built by the Gandhi Memorial Fund.

❖ Discuss and address issues related to khadi (handspun cloth), agriculture, and employment nationwide.

❖ Run an awareness campaign on the establishment of democratic values.

To commemorate the Gandhi Smarak Nidhi's diamond jubilee, the construction of Hall, Museum is planned at various centers across the country:

(1) Tamil Nadu Gandhi Smarak Nidhi -
The new building of Gandhi Smarak Public School,

Coimbatore, will be dedicated to the society on its 75th anniversary. This building is already ready, and a ceremony will be organized soon.

(2) Madhya Pradesh Gandhi Smarak Nidhi

- The construction of a Gandhi Smarak Museum in Chhatarpur, Madhya Pradesh, is proposed. The ceremony for this construction will be held on the 75th anniversary of the Nidhi.

(3) Punjab, Haryana, and Himachal Pradesh Gandhi Smarak Nidhi - A museum and an auditorium are being planned at the Pattikalyana Ashram Punjab, Haryana and Himachal Pradesh Gandhi Smarak Nidhi head office.

(4) Himachal Pradesh - The plan for starting a new center in Himachal Pradesh is being prepared. The commitment to begin the task will be made on the occasion of the Nidhi's diamond jubilee.

(5) Uttar Pradesh Gandhi Smarak Nidhi - The plan is to build an auditorium and a guest house in Uttar Pradesh Gandhi Smarak Nidhi Campus to commemorate the diamond jubilee.

(6) Nainital - Work on starting the Gandhi Smarak building in Nainital is progressing rapidly.

(7) Delhi - Planning is ongoing for the construction of an auditorium at Rajghat by the Gandhi Smarak Nidhi on the occasion of the diamond jubilee.

(8) Utkal Gandhi Smarak Nidhi - Inauguration of the new building of Gandhi Bhavan, Cuttack.

Program:

(1) In New Delhi, a three-day national conference is planned to be held in the beginning of March, with the participation of over 200 representatives from all over the country.

(2) An international conference is planned for the 75th anniversary of the Nidhi, to be held in Bangalore.

Publication:

A commemorative edition will be published to present the important contribution of the last 75th years dedicated to the ideals of Mahatma Gandhi. All state Nidhis will publish a booklet in Hindi or regional languages about their programs and contributions to the society.

Committee for the Event:

The Gandhi Smarak Nidhi has made an important contribution to the construction of Nation. At this crucial time, a committee formed to plan the event on the occasion of the diamond jubilee.

We invite to all of you to participate, cooperate and contribute in all these programmes.

- Sanjoy Singha

Chanamma Didi Died

Chanamma Didi, a blue stock of theology took last breath on December 20, 2023 at Brahma Vidya Mandir. She was 94 years old. Inspired by Acharya Vinoba, Chanamma Didi was practicing theology for years at Brahma Vidya Mandir.

She was born in Hosaritti village of Karnatak's Dharwad District. She actively participated in Bhodan Movement. Her last rites performed at Brahma Vidya Mandir on December 21, 2023.

Our heartfelt tribute to departed soul, and we pray God to give strength to bereaved family to bear the losses.

- Ed.

Political, Not Constitutional

Fali S. Nariman

Politically, it is a good thing that a temporary provision in India's Constitution (Article 370) has ceased to be operative. The decision has been upheld on December 11, in three judgments (one main and two concurring) of the Constitution Bench of five judges of the Supreme Court: It has facilitated a complete integration of Jammu and Kashmir into the Union of India. If that was all that had happened, the unanimous judgment would have been and should have been welcomed. But this is not all that happened.

What was actually done by the Centre was, in my view, not according to the provisions of the Constitution, nor in accordance with well-settled principles of federalism, a basic feature of the Constitution as was held in a 1994 judgment of a Constitution Bench of nine judges.

Under Article 370 of the Constitution of India, 1950, read with Presidential Order No. 48 of 1954 passed there under, an important safeguard was introduced. Article 3 was applied to the erstwhile state of Jammu and Kashmir with a condition that its area (which in 1950 was 39,145 square miles — something not mentioned in any of the three judgments) would not be diminished by the executive, nor by Parliament, without the consent of the J&K State Assembly. However, contrary to this assurance, a very substantial diminution of the area of the State of J&K (of 22,836 square miles — again, not mentioned in any of the three judgments) had been effected by the Centre in August 2019, admittedly without the consent, and without even the knowledge of the inhabitants of Jammu and Kashmir. As for the consent of their representatives in the elected Legislative Assembly, this was avoided by the Assembly itself having been dissolved by the Centre a few months earlier, on December 19, 2018, when, under Article 356 of the Constitution, President's rule (a euphemism for the central government's rule) was imposed in the state.

What is also not mentioned in any of the three judgments is that not only was the area of the state of Jammu and Kashmir substantially diminished (from 39,145 square miles in January 1950 to just 16,304 square miles in August 2019), its status too was unilaterally altered from state to Union Territory (with the much diminished area) — a situation neither warranted nor justified by any provision in the Constitution.

Another important safeguard for the state of Jammu & Kashmir had been set out in Article 370 (3) itself as enacted in 1950. It read as follows:

“(3) Notwithstanding anything in the foregoing provisions of this Article, the President may, by public notification, declare that this Article shall cease to be operative or shall be operative only with such exceptions and modifications and from such date as he may specify: Provided that the recommendation of the Constituent Assembly of the State referred to in clause (2) shall be necessary before the President issues such a notification.”

Hence, the power of the President under Article 370 (which is, in fact, the power of the Centre) to declare the entire Article 370 inoperative, was to come into effect only if the precondition mentioned in the proviso to Article 370 (3) was fulfilled — the recommendation of the Constituent Assembly of the state of Jammu & Kashmir. Disregarding this, and also disregarding the true function of a proviso to a section, the Court in the main judgment has stated as follows: “Since the Constituent Assembly of Jammu and Kashmir had not yet been constituted when the Constitution of India was adopted, the proviso to Article 370 (3) merely encapsulated the ratification process as decided by the Ministry of States. The words

‘recommendation of the Constituent Assembly referred to in Clause (2) shall be necessary before the President issues such a notification’ as it appears in the proviso to Article 370(3) must be read in this context. Thus, the recommendation of the Constituent Assembly was not binding on the President to begin with.”

The conclusion of the Court that the recommendation of the Constituent Assembly is not binding on the President was based on the Court’s erroneous interpretation of Article 370 (3) as being in two separate parts. This is what the main judgment says to support its finding that Article 370(3) is in two separate parts: “The power under Article 370 (3) did not cease to exist upon the dissolution of the Constituent Assembly of Jammu and Kashmir. When the Constituent Assembly was dissolved, only the transitional power recognised in the proviso to Article 370 (3) which empowered the Constituent Assembly to make its recommendations ceased to exist. It did not affect the power held by the President under Article 370 (3)”.

What the main judgment has said is not only directly contrary to Article 370 (3), but also flies in the teeth of a prior decision of a Constitution Bench of five judges reported in AIR 1961 S.C. 1596. It stated: “a proviso is added to an enactment to qualify or create an exception to what is in the enactment, and ordinarily, a proviso is not interpreted as stating a general rule”

My conclusion, therefore, is that the present decision of the Supreme Court, even if politically acceptable, is not constitutionally correct.

The writer is a constitutional jurist and senior advocate to the Supreme Court.

(Courtesy: The Indian Express, 18 December, 2023)

Homage:

Bihar Gandhi Smarak Nidhi’s Secretary Vinod Ranjan is No More

Senior Sarvodaya worker and Secretary of Bihar Gandhi Smarak Nidhi, Vinod Ranjan died on December 9, 2023 at a hospital in Delhi where he was being treated for last few days. His last rites performed in Delhi.

Vinod Rajgan was a belligerent worker and active in all Sarvodaya Movement’s program. His demise is an irreparable loss to the Gandhian Fraternity.

Parivrajika

Rajamma Behen Departed

Rajamma Behan, a Sarvodaya Sadhika (Practitioner) died on December 14, 2023 at Vinoba Niketan, Kerala. She was 99 years old and was progressing towards her century.

Rajamma Behan was a blue stock and reputable social worker from Sarvodaya family. She took part in Bhoodan Movement and started a life with theology under the guidance of Acharya Vinoba at Pavanar Ashram. She founded Vnoba Niketan Ashram near by Thiruvananthapuram and was settled there for years with her social activities.

Our heartfelt tribute to departed souls and we pray God to give strength to bereaved families to bear the losses.

- Ed.