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Founder

M.N. ROY

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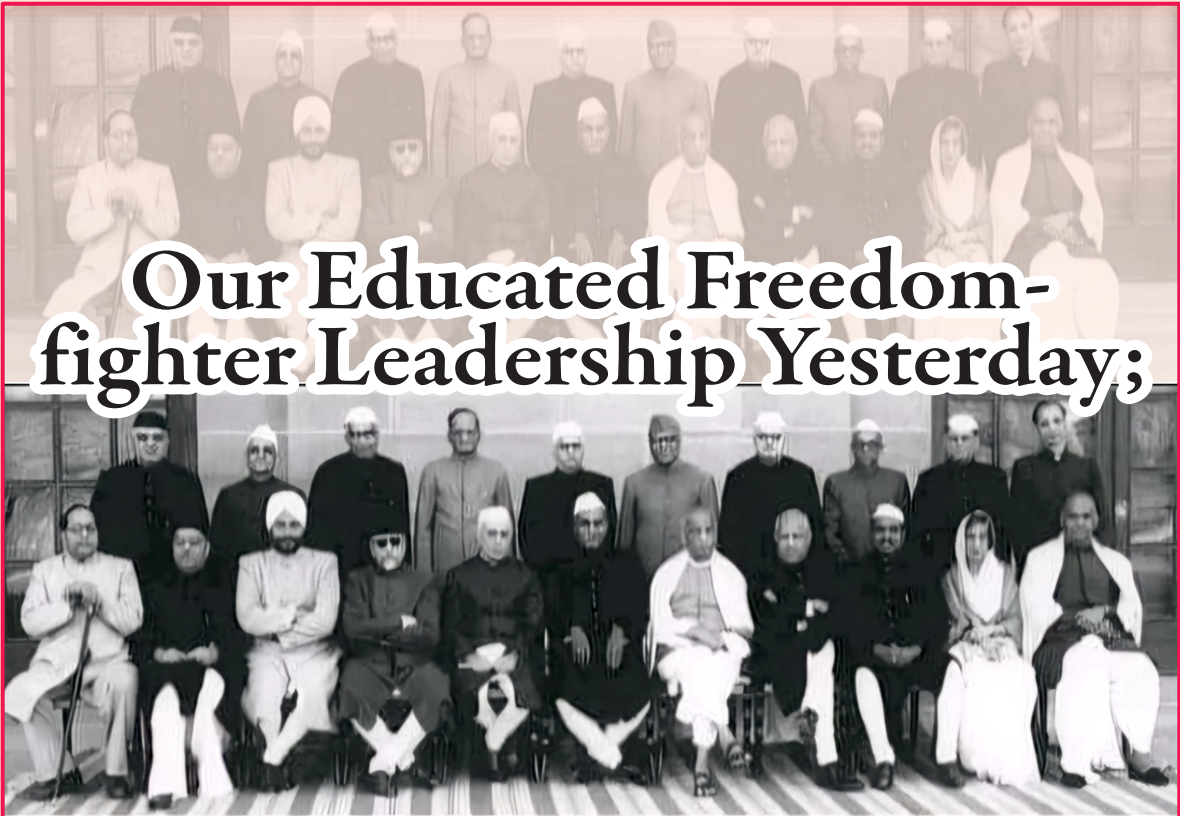
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**M.N. Roy, the great revolutionary freedom-fighter, philosopher,
intellectual, prolific writer and exponent of individual freedoms**



(21 March 1887 – 25 January 1954)

658



**Our Educated Freedom-
fighter Leadership Yesterday;**



And No One Like Them Today!

THE RADICAL HUMANIST

Vol. 88 Number 10, January 2025

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On behalf of the Radical Humanist fraternity I pay our respectful tributes to M.N. Roy, the great revolutionary freedom-fighter, philosopher, intellectual, prolific writer and exponent of morality in politics and democratic and individual freedoms on his 70th death anniversary on 25 January 1954. We renew our pledge to continue to work for the humanist values propagated and promoted by him.

– Mahi Pal Singh

Articles and Features :

Rajya Sabha Chairman's partisan behaviour led us to move notice for his removal as V-P: Opposition parties

Several opposition parties on Wednesday said the “partisan” conduct of Rajya Sabha Chairman Jagdeep Dhankhar prompted them to move a notice for his removal as Vice President and alleged that politics has taken precedence over rules in the Upper House of Parliament.

Addressing a press conference at the Constitution Club here, Congress president Mallikarjun Kharge alleged that Dhankhar is working as a government spokesperson and acting like a school headmaster, often sermonising experienced opposition leaders and preventing them from speaking in the House.

Kharge also claimed that Dhankhar himself is responsible for the disruptions in the House. “The Rajya Sabha chairman’s conduct has been contrary to the dignity of the post he holds. He targets opposition leaders and often praises the government,” Kharge said.

“Politics has taken precedence over rules in the Rajya Sabha and the chairman has indulged in partisan behaviour,” he alleged. The Congress chief said since 1952, no resolution has been brought under Article 67 of the

Constitution against the vice president as those who held the post previously never indulged in politics and remained unbiased.

“The notice for the Rajya Sabha chairman’s removal is not about personal grievances or political battles. We are fed up with his behaviour and partiality. That is why we have given the notice for his removal,” he said.

Kharge said the opposition parties have nothing against Dhankhar, “but he left us with no option but to go ahead with the notice for his removal”.

“The Rajya Sabha chairman’s conduct in the House has harmed the country’s dignity,” he alleged. DMK leader Tiruchi Siva said there is a blatant attack on the country’s democracy in Parliament by the ruling Bharatiya Janata Party (BJP), while Trinamool Congress (TMC) leader Nadimul Haque said he agrees with the leader of the opposition. “We are not allowed to express ourselves in the Rajya Sabha,” Haque said.

Courtesy **The Hindu**, 11 December, 2024. 

Individuals in stature vs persons in positions of power

P.A.S. Prasad

The history of mankind reveals broad, separate identity of people who mattered. Peace progress, prosperity and rational thinking, great discoveries and inventions, particularly in medicines and impetus to literacy are the contribution of individuals of stature. Sometimes they had the support of rulers but otherwise they went alone in their quest, facing insurmountable odds and risks.

Some rulers were, of course, progressive and had welfare of the people looked after. But they were rare, like Akbar, Shershah and Napoleon. Napoleon, besides being a genius in warfare, was almost a great administrator and his code Napoleon still guides French governance. Abraham Lincoln, by the time he became President of America, people fondly called him honest and able. He was loved for his simplicity and response to people. He was born to free the slaves and fought a civil war to free the slaves. He lost two sons in the civil war. He believed that all are born free. His Gettysburg speech is considered one of the greatest speeches. He precisely defined democracy in that speech. He lost his life for the cause he fought. His quotes are still valid for their wisdom and directness.

In Europe we have individuals with unique stature. To name a few - Bertrand Russell, though he was a highly born lord, he never used it. He made great contribution in the field of pure mathematics, philosophy, Nobel Laureate in literature. He was highly respected all over the world. He prevailed and convinced Russia not to take the Cuban missile crisis as a prestige issue and to pull out of the crisis for the sake of world peace.

Einstein rose above his stature as a physicist Nobel laureate giving support to

individuals, who faced injustice. He intervened to make Prof. Satyen Bose of Bose Einstein theory in whose name the God Particle was named Boson to make him the head of his dept. in Dacca University which had been denied to him.

He pleaded with the British to release the great revolutionary M.N. Roy from jail during the British rule in India. He lent his support to many other causes too. He is often quoted as pearls of wisdom.

Einstein enjoyed helping young school girls wrestling with their home work and maths by the side of a lake in Princeton on his walks.

Some characteristics are common to all these great men. They are invariably by unassuming possessors of a high degree of moral courage, intensely humane and stupendous commitment to the cause they espouse.

Of course there are a few others like Charlie Chaplin who rose much above their calling. They were all for humanity. Chaplin scripted an everlasting brilliant speech in his picture, the great dictator, lampooning Hitler who became furious with Chaplain.

South Africa has given a great leader of magnificent stature to humanity, Nelson Mandela. He spent decades in solitary confinement as he fought apartheid and white supremacy. His efforts were successful. After release he bore no revengeful attitude towards the whites. The people wanted him in one voice to become the first black President in the combined black-white govt which ended apartheid in South Africa. The whites cooperated with him as he was found to be genuinely free of rancour or grudge.

In the Indian context we are blessed to

live in this country which had the foot steps on which we walk today. Two eminent illustrious and distinguished personages touching divinity adorned our lives.

Gautama the Buddha being prince Siddharth renounced his palace comforts and royalty and came out into the wide world to find answers for human miseries. He was enlightened under the Bodhi tree. He came out with Dhammapada or right precepts for living. He condemned animal sacrifices in rituals, taught people to be rational and not worry about death and after life and rebirth. His teachings travelled to far-east where Buddhism exists even today in some form or the other. Kings and commoners became his disciples and followers. His magnetism was irresistible. His teachings reached Central Asia via Afghanistan. He denounced casteism and forged a community based on equality. But alas the country the seat of *dhammapada* chose to remain with ritualistic Hinduism with all its shortcomings. Vivekananda lamented this country's down slip when we drove out Buddhism from this country. Adisankara called Buddha Yoginam Chakravarthy.

Even today we erect huge Buddha statues and the drawing rooms of many people display a small Buddha statue in his famous lotus pose.

But no one wants to follow his teachings of rational living. Buddha's quotes are often quoted as they are valid for all time for wisdom and inspiration.

Mahatma Gandhi

None will believe that a man with soul and body ever walked on this earth.

Einstein's quote following Gandhiji's assassination.

Gandhiji had a high degree of moral courage. When he believed that the action that he was going to undertake was right, he would carry it out irrespective of the number of people he was pitted against. This was evidenced while he was only twenty four

years young barrister, fresh in South Africa. He took on thousands of whites in Durban for their racial mis treatment of Indians, He would go now and then to the British parliament to submit petitions against the whites. He was thorough in presenting his case. After returning to India, he led the freedom movement. He is the greatest motivator in the annals of history. He turned people who had been mere straws into heroes facing the British lathis and bullets with non-violent resistance. He made people wear *khadi* with pride and self-respect. He taught people never to be afraid of the British might. He made them realise that his two weapons of truth and non-violence were invincible. His teachings were the life he led. He and his followers cleaned the Bombay public latrines choked with human excreta. He wore minimum clothing. He travelled as a deck passenger while he was given a first class cabin. He stayed in east end of London with the textile workers. They called him affectionately as good old Gandhi along with good old Charlie for Charlie Chaplin. In Delhi he stayed in the *bhangi* colony.

He never visited a temple but fought for the entry of untouchables. He had no private life of his own.

Ultimately he laid down his life for Hindu-Muslim unity. The British paid him the ultimate tribute by installing his statue in Westminster. He had mesmerising magnetism. He drew huge crowds and many individuals, rich and poor, of various backgrounds.

The freedom movement

In the churning of the freedom movement quite a few eminent leaders emerged, well educated, most of them wealthy. For them service above self was a common factor. They served long periods in jail, sacrificed their all acquired heights of stature and endeared themselves to the people. They never dreamt of occupying positions of power.

Thus Nehru, Patel, Jayaprakash Narayan, Lohia and a few others among such leaders. M.N. Roy was a late entrant into the mainstream. He joined the Congress, became a habitual wearer of *khadi*. He spent his early days organising armed struggle against the British, fled the country and participated in the active politics and early aftermaths of revolutions in Mexico, Russia, China and Central Asia etc.

Poet Tagore was a class apart. He gave full moral support to worthy causes, renounced his knighthood in the aftermath of Jalianwala Bagh massacre. He scripted our national anthem.

Down south Tanguturi Prakasam stands tall in the freedom struggle. He sacrificed his entire wealth in the movement. When he bared his chest to British bayonets defying curfew in Madras, people called him Andhra Kesari, i.e., the lion of Andhra. Even though he was chief minister thrice, he was penniless. The govt. sanctioned ₹ 750/- per month. After his death a grateful govt named the district of his birth Ongole as Prakasam district. The barrage across Krishna near Vijayawada was named after him. People loved him immensely.

In contrast

After decades of degradation, corruption and moral decay this country has now touched the nadir of cancerous proportions of corruption, strong bonds of stranglehold ties and vicious nexus between political class and corporates, manipulating expertise on stock market the activists in this regard have taken a leaf, developed and fine-tuned the advice given by the train robber towards the end of the story of nearly century old story of O. Henry, quote “.....the train robbery profession is not so pleasant as one of its collateral branches - politics or cornering the market.”

Our political VIPs get elected by bribing huge amounts to parties for obtaining tickets

and afterwards they invest huge amounts on elections. If they win they are out to get back their investment to get there and they earn many times more. They enjoy their privileges and perks. Subhramaniyan Swamy famously said that politicians are busy with either politics or with their mistresses.

Alas! The tragedy is that there is not one leader in modern times who can be compared to any one of those tall leaders, selfless and honest, of the independence struggle

The moral degradation in the present society has touched the bottom. It cannot go further down.

Those in power are drunk with it. They begin to believe and proclaim that they are God sent to rule the country.

At least 20 years back we never heard of chilling cases as we hear today. Starting with Nirbhaya case shocking the country which does not shock any more as such cases with mere variations are emerging frequently. Now we see in the news papers that fathers raping their own daughters, young baby toddlers being raped and killed, wives joining paramours in killing their husbands, gang-rapes and abductions, girl trafficking - the list is sordid and endless.

In the Gita the lord assured that He would happen in again and again to wipe out evil and reaffirm righteousness but the scale of devastation in this country has thwarted the God almighty and rendered Him the failed God!

Coming back to the title of this article, it is manifestly certain that the great leaders of immense stature would be forever enshrined in the immortal hall of fame and those who joined politics for power, wealth and personal gain will be ignored and forgotten once they are out of their power and position.

The previous era turned princes into paupers and the present dispensation has made princes out of paupers! 🌈

1991 Places of Worship Act: What Supreme Court stopped, why

Order applies to both pending suits and those that may be filed in future. In its Babri Masjid ruling, SC said 1991 Act was part of 'basic structure' of Constitution. This may be relevant as it hears challenge to 1991 law.

Apurva Vishwanath

The Supreme Court on Thursday (December 12) barred civil courts across the country from registering fresh suits challenging the ownership and title of any place of worship, and from ordering surveys of disputed religious places until further orders.

“As the matter is sub judice..., we deem it appropriate to direct that no fresh suits may be filed nor registered or proceedings be ordered till further orders of this court... We also direct that in pending suits, the courts would not pass any effective interim orders or final orders including orders of survey till the next date of hearing,” the Bench headed by Chief Justice of India Sanjiv Khanna said.

Case before the court

The Bench, also comprising Justices P V Sanjay Kumar and K V Viswanathan, was hearing petitions challenging the constitutional validity of the Places of Worship Act, 1991.

The law, brought in the wake of the Ayodhya movement, prohibits conversion of any place of worship and provides for the maintenance of the religious character of places of worship as it existed on August 15, 1947.

Only the Ram Janmabhoomi-Babri Masjid dispute was kept out of the purview of the law since the case was already sub judice.

What the order impacts

The order applies to both civil suits that are already pending (**there are several**) and to those that may be filed in the future.

The order bars the “registration” of cases by civil courts. Consequently, they also cannot

order a survey, or seek a report from the Archeological Survey of India (ASI), as they have done in several recent instances.

All these civil cases have raised questions on the title of mosques, arguing that they were built on Hindu religious structures that were razed by medieval rulers.

The SC also observed that court orders in these civil suits could be challenged on the grounds that they violate larger constitutional principles of secularism and the rule of law, irrespective of the Places of Worship Act.

Challenge to the 1991 Act

Meanwhile, the SC will have to hear the constitutional challenge to the 1991 Act. These petitions have been pending since 2020. It remains to be seen if the Centre will defend the law or argue against it.

The petitioners have challenged the law on two main grounds. First, that it takes away the power of judicial review by abating claims that existed at the time of passing the law and prohibiting fresh claims in courts. Second, that it is arbitrary in retrospectively picking August 15, 1947 as the cut-off date for determining the religious character of a place of worship.

In 2019, in the five-judge Constitution Bench ruling in the Ayodhya case, the SC had referred to the 1991 law as forming a part of the “basic structure of the Constitution”. While the 1991 law was not directly under challenge in that case, the SC observations could still be relevant in determining the constitutional validity of the law. 🌈

Places of Worship Act: A timeline

- 1991:** Places of Worship (Special Provisions) Act enacted; said “religious character” of a place of worship will remain as it was on August 15, 1947. Only exception: “Ram Janma Bhumi-Babri Masjid”. The Ayodhya agitation was raging at the time; Babri Masjid was still standing.
- Oct 2020:** First petition filed challenging the Act; five more filed subsequently — on grounds of arbitrariness on date, and the fact that it takes away judicial review.
- Aug 2021:** Five women filed suit in Varanasi seeking permission to pray at the Gyanvapi mosque.
- May 2022:** After case reached SC, then CJI D Y Chandrachud orally observed that a survey “may not necessarily fall foul” of the Places of Worship Act.
- 2022-2024:** At least six suits were filed claiming past existence of a Hindu temple at the site of a mosque or dargah. Surveys were ordered in three of these cases.
- Dec 2024:** SC barred further survey orders, further “effective” orders, and the registering of fresh suits.

— **AJOY SINHA KARPURAM**

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Courtesy **The Indian Express**, December 13, 2024

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UP CM backs Allahabad HC judge who made anti-Muslim remarks, says he spoke the truth

Adityanath asked if it was a crime to speak about what was beneficial for the majority community.

Scroll Staff

Uttar Pradesh Chief Minister Adityanath on Saturday questioned the Opposition for seeking impeachment proceedings against an Allahabad High Court judge, accusing it of trying to silence those speaking the truth.

Adityanath said that the judge, Justice Shekhar Yadav, had only called for a Uniform Civil Code and said that the country should be run as per the wishes of the majority.

“A Uniform Civil Code is indeed needed,” the Bharatiya Janata Party leader said. “The sentiments of the majority are respected the world over. If someone in India speaks about what is who have been circumcised and described the community as ‘harmful/beneficial for the majority, if someone speaks that truth, is it a crime?’”

However, Yadav, during his speech on December 8, had also uttered a slur used for Muslims ‘to the country’.

The judge claimed that children from “one community”, implying Hindus, are taught values like compassion and non-violence, while those from “another community”, implying Muslims, were exposed to animal slaughter and lack tolerance.

Yadav had said that India would soon adopt a Uniform Civil Code – a common set of laws governing marriage, divorce, succession and adoption for all citizens.

On Saturday, Adityanath asked how Opposition parties could call themselves

democratic despite seeking the impeachment of the Allahabad High Court judge who made the remarks.

“They [Opposition] go around carrying copies of the Constitution,” the chief minister said. “They do not have the slightest shame. They are those who are throttling the Constitution.”

In a similar vein, Adityanath questioned the Opposition for seeking impeachment proceedings against Vice President and Rajya Sabha chairman Jagdeep Dhankhar.

“The vice president, on the strength of his ability and competence, is conducting the proceedings of the House and upholding the Constitution,” the chief minister said. “But the Opposition is worried about how a farmer’s son could reach such a high post.”

The Opposition, in the no-confidence motion, accused Dhankhar of conducting the proceedings of the Upper House of Parliament in an “extremely partisan manner”.

Congress MP Jairam Ramesh said that his party was forced to move the no-confidence motion as Dhankhar was “not listening to the leader of Opposition; he is allowing the treasury bench MPs to make the wildest of charges, in the most objectionable language against our most senior leaders and they are being encouraged to do so.”

Courtesy **Scroll.in**, Dec 15, 2024. 

INDIA bloc all set to move Supreme Court over alleged EVM manipulation

Congress has sought Assembly-wise voter rolls and booth-wise result sheets for both the Lok Sabha and Assembly elections in the State.

Sreeparna Chakrabarty

Nationalist Congress Party (SP) chief Sharad Pawar late on Tuesday (December 10, 2024) met Delhi Chief Minister Arvind Kejriwal and Congress MP Abhishek Singhvi at Mr. Pawar's Delhi residence, as the INDIA bloc is all set to move the Supreme Court over alleged manipulation of EVMs [electronic voting machine] in the recent Assembly elections in Maharashtra.

NCP(SP) leader Prashant Jagtap, who lost the Assembly election from the Hadapsar seat in Pune, told reporters after the meeting that the INDIA bloc would approach the highest court.

The Congress on Tuesday urged the Election Commission to make public the data related to the recent Maharashtra Assembly election, as agreed at an earlier meeting. The party has sought Assembly constituency-wise voter rolls and booth-wise result sheets for both the Lok Sabha and Assembly elections in the State.

In a letter to Chief Election Commissioner Rajiv Kumar, the chairperson of the Congress's Data Analytics Department, Praveen Chakravarty, sought all the data to be provided in Excel sheets.

The letter reiterated that 40 lakh new voters were enrolled and 75 lakh extra votes polled in the Assembly election compared with the Lok Sabha election held just six months ago.

"This increase of 4.3% in voters enrolled and 13% in votes polled is unusually high compared to previous election cycles in

Maharashtra or other States under similar election cycles," the party said.

"We had also presented a list of 118 constituencies in Maharashtra where 25,000 or more extra votes were cast versus Lok Sabha elections and the BJP alliance had won 102 in the Vidhan Sabha versus just 58 in the Lok Sabha election," it said.

A delegation of Congress leaders had met the EC on December 3 and flagged "discrepancies" in the Maharashtra Assembly polls.

"As agreed in that meeting, we await further data from the Commission", the letter read.

The December 3 meeting came after the Congress on November 29 raised "serious and grave inconsistencies" which, it said, were being revealed in the data relating to the polling and counting processes for the recently concluded Assembly election.

In an interim response to the Congress's complaint the next day, the poll body reiterated that a transparent process was followed with involvement of candidates and their agents at every stage. The commission still assured the party of further review of all its legitimate concerns.

The Maha Vikas Aghadi, consisting of the Congress, the Shiv Sena(UBT), and the NCP(SP), lost the Maharashtra election to the BJP-led Mahayuti alliance. The Congress won 16 seats, while the Sena (UBT) bagged 20 seats and the NCP (SP) won 10.

Courtesy **The Hindu**, December 11, 2024, New Delhi 🇮🇳

What kind of India do we seek?

In Kachchh, a gathering of organisations opens up space to ask this and other big questions, and a daring to imagine alternatives to modern ‘development’



Yogendra Yadav

Kachchh invites you to ask big questions. This is the site for a fusion of horizons. Here, sea meets desert under an uncluttered sky. Shifting topography, recurring earthquakes, the intermingling of races and cultures from Gujarat, Sindh and Rajasthan to Afghanistan, Iran, and East Africa and a line in the sand that marks the boundary of nation-states serves to remind you of the transient nature of everything. Kachchh releases you from the prison of the here and now, from the cycles of breaking news, election results, scandals and wars, and lets you sit back and reflect.

So, we asked big questions: What does our future look like? What should it look like, if we could shape it? What kind of India do we seek? Can we envision something beyond the stale dream of a modern, developed, superpower with cutting-edge technology and an x-trillion dollar economy — a mirage that we have been chasing, breathless and mindless? Is another world possible?

“We”, here, meant a group associated with Vikalp Sangam, a confluence of over 90 organisations and movements that share a quest for transformative alternatives. These are activists, scholars and development practitioners who do not merely complain and protest; they actively seek alternative “ways of meeting human needs and aspirations, without trashing

the earth and without leaving half of humanity behind”. And they do not seek it just on paper, but on the ground. This was the 10th anniversary of Vikalp Sangam, a moment to remember the journey and to reflect on the future.

Kachchh provides stark options to think about our future. From an outsider’s gaze, this largest district of India is a backward wasteland — vast swathes of unproductive arid land unfit for cultivation — waiting to be reclaimed for “development”. Following the earthquake of 2001, all kinds of modern, multi-storied buildings and industries (led by, who else, but Adani!) have come up here. From a different point of view, however, Kachchh is diverse and vibrant, home to many ecological practices, crafts and art that we need to learn from. When I read that someone called Kachchh a “museum of environmental hardship” the first image that flashed in my mind was the breathtaking museum of Kachchh embroideries in that extraordinary LLDC complex at Bhuj that could put any of our metropolitan museums to shame. Kachchh is a museum of human resilience and creativity under conditions of hardship.

More than high-rise buildings and factories, for me the symbol of modernity in Kachchh is a thorny tree that you see everywhere. The scientists call it *Prosopis juliflora*. Locals call it gando bawal (or kharo babul), the mad tree.

Native to Mexico, this tree was imported to India and showered on to Kachchh — literally, thanks to government helicopters — ostensibly to prevent desertification. Today, this invasive and impossible-to-uproot tree is omnipresent in Banni, the largest grassland of India, displacing other native trees and grasses, extracting the scarce underground water, besides harming animals who consume its leaves. This is what we call development.

Are there alternatives? Are there ways to support local farming practices and pastoral communities like Maldharis? Kachchh is also home to many experiments in alternatives. As many as 13 organisations hosted this decennial Vikalp Sangam. Sahjeevan is involved in organising the Maldhari community in demanding community forest rights that they are entitled to under the Forest Rights Act. They have also initiated a project to replant native (meetha) babul to replace the invader tree. Khamir, whose campus hosted the confluence this time, is involved in the promotion of traditional handicrafts and the preservation of culture, community and local environments. They have revived cultivation of and weaving in Kala cotton, a local variety destroyed by industrialisation. Other organisations are involved in increasing the participation of women in decision making and making self-governance a reality.

The deliberations in this decennial meeting were obviously not limited to Kachchh. A team from Gadchiroli in Maharashtra and another from Karnataka shared the success stories of how Adivasi communities acquired community forest rights and have managed their common resources for collective good. Activists from all over the country discussed alternative experiments, success stories and challenges in ecological agriculture, water, environment, energy, health, education and democracy.

Over the last 10 years, Vikalp Sangam has documented nearly 2,000 such stories from all

over the country on its website <https://vikalpsangam.org> and showcased some of these in a documentary “Churning the Earth”. These stories include a Goa-based couple (who else but Sikhs from Jalandhar) that grows their veggies and fish without using soil and any chemicals, a successful off-grid, small-scale, rooftop, solar experimentation around Kolkata, revival of traditional architecture in Spiti and Ladakh, recharging of “dead” rivers in Alwar district of Rajasthan, an alternative hospital run for and by Adivasis in Tamil Nadu, models to integrate hawkers and street vendors in urban planning, and hunnarshala to promote craft learning in mainstream education. A similar initiative, ASHA (Alliance for Sustainable and Holistic Agriculture) has held five Kisan Swaraj Sammelans to bring together successful models in alternative agriculture. Just last week, a People’s Festival of Innovation was held in Delhi that showcased a wide range of affordable, grassroots innovations. We are not short of alternatives.

You might ask: Are all these real alternatives to modern development? Can they take on the challenge of scale and survive in the face of giant corporations in a globalised market economy? Does the practice of majority-based democracy leave any room for concerns of future generations and nature? Valid questions. But you must also ask another set of valid questions: Can anyone seriously think of offering to every Indian the lifestyle available to everyone in the Global North? Is this model worth replicating? Can we afford to go on with the destruction of nature, lives and livelihoods as an inevitable cost of “development”?

Once we recognise the unbearable weight of these questions, a quest for alternatives does not remain an obsession of a mad minority. Once we realise that alternatives are not about going back to our past, but about imagining and shaping our future, this becomes a collective search.

(To be Contd....on Page -15)

Merkel Told Modi ‘Increasing Number of Muslims, Christians Were Attacked by Hindu Nationalists’ After He Became PM

The Wire Staff

Modi ‘vehemently denied it’ but Merkel writes in her memoirs, ‘Unfortunately, the facts said otherwise’. Manmohan Singh told her that ‘the country’s unity arises from its diversity.’



The cover of ‘Freedom’ by Angela Merkel, and Modi and Merkel in 2019. Photo: X/@PMOIndia

New Delhi: In her recently released book, *Freedom: Memoirs 1951-2021*, former German Chancellor Angela Merkel has noted that in her meetings with Prime Minister Narendra Modi, she raised the issue that “an increasing number of members of other religions, predominantly Muslims and Christians, were being attacked by Hindu nationalists” in India since he had taken office.

As per Merkel, when she broached the subject with Modi, “he vehemently denied it and emphasised that India was and would remain a country of religious tolerance.”

The former German leader goes on to sharply dispute his denial: “Unfortunately, the

facts said otherwise.”

She further adds that her “worries remained – religious freedom is, after all, a key component of every democracy.”

‘Modi loved visual effects’

Recounting her first meeting with Modi in April 2015 in Germany, Merkel notes that “Modi loved visual effects.”

Modi then told her about his “election campaigns in which he’d spoken in a studio and had his image projected as a hologram to more than 50 different locations, where thousands of people were listening to him in each.” Modi had used the hologram during his election campaign for the 2014 general elections.

‘I could see his point’: On Manmohan Singh

The former German chancellor also recounts her meeting with former prime minister, Dr Manmohan Singh. Highlighting that the trained economist with wide-ranging global experience was “was the first non-Hindu premier” of the country, she writes that Singh’s “primary aim was to improve living standards for the two-thirds of India’s 1.2 billion population who lived in rural areas. This amounted to 800 million people, ten times Germany’s entire population.”

“In my conversations with him, I came to better understand the misgivings of the emerging countries toward us, the affluent countries. From

his perspective, we expected them to take great interest in our problems, but we weren’t prepared to offer them the same courtesy,” she notes. “I could see his point, and began to study more closely the challenges faced by the emerging countries.”

Singh also told Merkel “about the cultural diversity of his country, a sub-continent with more than five thousand years of history. The Indian constitution alone recognises twenty-two official languages. The country’s unity arises from its diversity. In this respect, India is more comparable with the European Union as a whole than with one of its member states.” She had first met Singh in 2006.

Courtesy **The Wire**, 01/Dec/2024 

What kind of India do we seek? Contd. from page - (13)

How do we make these radical alternatives feasible? Can we think of a “scale out” rather than “scale up” model? What is the roadmap of transition from where we are to where we wish to go? Someone has to begin thinking about these questions. Someone has to risk being called “mad” and think of alternatives before all of us are left with nothing to think about. Kachchh invites you to ask these big questions.

Postscript: As I was writing this article, I heard about the passing away of Dr. Rakesh Sinha, an engineer and a thinker who argued that unemployment was inherent in the modern, large-scale, industrial model of development; who believed in an alternative paradigm of economy and technology. 

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Justice Chandrachud's Mega-legacy could Sink India's Electoral Democracy

The evisceration of India's electoral system became possible because of his dishonest abuse and misuse of his powers as master of the roster.

The recent Maharashtra assembly election results were stunning. The three main parties of the defector-infested NDA government won a landslide victory with a strike rate of 76.9%, with the BJP topping with an unprecedented 89%.

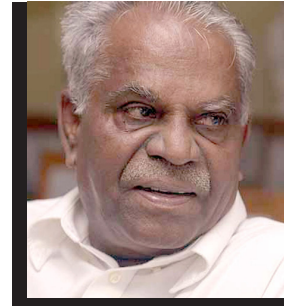
The response from the losing opposition was sharp. Shiv Sena (Uddhav Balasaheb Thackeray) leader, Sanjay Raut, said this: "Former CJI [Chief Justice of India] Chandrachud is responsible for the unexpected results of the Maharashtra elections. He did not give a timely judgement on the case involving the party symbol and unconstitutional government running in the state. History will not forgive Justice Chandrachud for not giving the decision, his name will be written in black letters."

The Congress, which managed a measly strike rate of 16%, had this to say: "The Maharashtra outcome has been brought out through a targeted conspiracy after the level playing field was disturbed in the state to defeat the Congress."

While the Shiv Sena's statement was specific, one wonders what the Congress was trying to convey! Neither fish nor fowl as usual! But the use of the words "targeted conspiracy" is alarming. Therein lies the tale of the mega-legacy of the recently retired CJI D.Y. Chandrachud.

The former CJI was fond of legacy-hunting and among the many legacy-postings floating around this graph is very appropriate. It says that during his tenure he "avoided election integrity cases" because they had "high political stakes".

The fact is that because of that very reason, he went several steps forward and facilitated the evisceration of the integrity of elections by misusing/abusing his role as "master of the roster".



M.G. Devasahayam

This is described as the most consequential role played by the CJI as it gives them the discretionary, unchecked power of assigning cases to select benches, thereby substantially influencing the direction of the court during their tenure whether or not they are personally involved in deciding those cases.

This article would be a narrative of such a case with my personal experience.

Justice Chandrachud took over as CJI and master of the roster in November 2022. In March 2023, a PIL under Article 32 of the constitution was filed in the Supreme Court by the Association for Democratic Reforms (ADR). It sought appropriate directions to the Election Commission (EC) to give full effect to the purport and object of the court's directions in *Subramanian Swamy v. Election Commission of India* (2013) 10 SCC 500.

In this case, the court while "taking note of the advantage in the system" without insisting on any incontrovertible proof of errors/manipulation held that in order to "have fullest transparency in the system and to restore the confidence of the voters", a "paper trail" was an indispensable requirement of free and fair

elections” and directed the EC to introduce the voter-verifiable paper audit trail (VVPAT) in electronic voting machines (EVMs).

It is noteworthy that the term used is ‘voter’ verifiable. It is the knowledge, satisfaction and verification of the voter that is at the heart of electoral democracy and not just that of the EC, political parties or candidates. ‘Voter-verifiable’ means each voter should have the knowledge that her vote has been cast as intended, recorded as cast and counted as recorded.

Though the requirement of the voter verifying that her vote has been ‘cast as intended’ is cursorily met when the VVPAT slip is displayed for about seven seconds after she presses the button on the EVM, there is no procedure for the voter to verify that her vote has been ‘recorded as cast’ and ‘counted as recorded’, which are indispensable for voter verifiability. The EC only counts the unseen ‘electronic vote’ and not the ‘paper vote’ seen by the voter.

This is plain fraud.

Inter alia, the petition prayed for the following relief from the Supreme Court to ensure the integrity of EVMs:

1. Direct the EC to cross-verify in full the count in EVMs with votes that have been verifiably ‘recorded as cast’ by the voters themselves i.e. the VVPATs;

2. Issue direction to the EC to ensure that voters are able to verify through VVPATs that their vote has been ‘counted as recorded’.

Actually, this petition was in continuation of the Supreme Court order in writ petition (C) no. 23 of 2019, wherein the court expressed its “reluctance to go into the issues regarding the integrity of the EVMs which have been raised at a belated stage. The petition was filed in the month of December 2018 raising various technical issues which are not possible to be gone into at this stage.”

This order was passed just before the parliament election in 2019 by the first bench of

three judges comprising CJI Ranjan Gogoi, Justice Deepak Gupta and Justice Sanjiv Khanna while disposing of the main petition *N. Chandrababu Naidu v. Union of India* (2019) 15 SCC 377, wherein as an ad hoc measure the court had ordered the matching of about 2% to 2.5% of EVM memory with VVPAT slips.

I was also part of this group of petitions as lead petitioner of the one filed by civil society seeking 30% matching based on the opinion given by top statistical experts.

In filing the 2023 PIL, the ADR had taken care to comply with two essential requirements. One, to give enough time (more than one year) for the Supreme Court “to go into the issues regarding the integrity of the EVMs” before the parliament election of 2024, which it could not do in 2019.

Two, the petition was backed up by a comprehensive report prepared by the Citizens’ Commission on Elections (CCE) chaired by a former Supreme Court judge titled, ‘An inquiry into India’s election system: Is the Indian EVM and VVPAT system fit for democratic elections?’, published in January 2021.

I was the coordinator of the CCE, whose expert group reviewed the functioning of EVMs primarily from the angle of their integrity and gave these important findings:

1. Due to the absence of end-to-end verifiability, the EVM/VVPAT system as being practiced by the EC is not verifiable and therefore unfit for democratic elections.

2. There must be a stringent audit of the electronic vote count before the results are declared. The audit may in some cases require a full manual counting of VVPAT slips.

3. The electronic voting system should be re-designed to be software and hardware independent in order to be verifiable or auditable.

The CCE had relied on the depositions and expert opinions of several national and international experts in the areas of computer hardware, software, cyber security, statistics

and election management.

Among the domain knowledge holders were Ronald L. Rivest of the Massachusetts Institute of Technology; Alex Halderman of the University of Michigan; Poorvi L. Vora and Bhagirath Narahari of George Washington University; Philip B. Stark of the University of California, Berkeley; Vanessa Teague of the University of Melbourne; Sandeep Shukla of IIT Kanpur; Subhashis Banerjee of IIT Delhi and K.V. Subrahmanyam of the Chennai Mathematical Institute.

There can't be a galaxy of better expertise on the subject than this.

At the time of filing this PIL, another related petition filed by ADR on the issue of serious discrepancies between the number of votes polled and the number of EVM votes counted in the 2019 general elections filed on December 13, 2019 (W.P. (C) 1382/2019) was pending.

From the contents of these two writ petitions and the report of the CCE, it was evident that the integrity of EVMs for conducting elections was in serious doubt.

The Supreme Court was morally and legally bound to take up the case in all seriousness, post it before the first bench of three judges, examine the issues expeditiously, consider the expert opinion and pronounce a judgment well before the process for the 2024 parliament election commenced.

And this was the duty and responsibility of CJI Chandrachud in his role as master of the roster!

But what actually happened was almost the opposite. Breaking all norms and conventions, the petition was listed for hearing before a single-judge bench of Justice M.R. Shah. On his retirement, the petition landed with a two-judge bench of Justice Sanjiv Khanna and Justice Bela M. Trivedi, and on July 17, 2023 they strongly remarked that the PIL was casting too much suspicion on the sanctity of the election process.

On the next hearing on September 6, 2023 the bench adjourned the case saying there was no urgency in the verification of EVM data against VVPAT records.

Therefore, the case dragged on with several adjournments, at which time I filed an intervening petition in my capacity as coordinator of the CCE, explaining its background, unique expertise and the key findings in the report.

The case was finally taken up and dismissed by a bench of Justices Sanjiv Khanna and Dipankar Datta, and the judgment was handed out on April 26, 2024, the day when 191 constituencies had completed the polling and 35% of the electorate had cast their votes! The CCE's report and its expert inputs were totally ignored and the false and misleading affidavits filed by the EC were taken as gospel truth.

What is more, the Supreme Court order read more like preaching than a judgment on merits:

"[EC] maintains that the EVMs have been a huge success in ensuring free, fair and transparent elections across the nation in all elections. They restrict human intervention, checkmate electoral fraud and malpractices like stuffing and smudging of votes, and deter the errors and mischiefs faced in manual counting of ballot papers. While earlier it was apprehended that the introduction of EVMs will lead to hardship and disenfranchisement, independent studies showcase that EVMs have led to increase in voter participation."

The judgment upheld not the integrity but the whim of the machines over the will of the people that is the foundation of democracy:

"In our considered opinion, the EVMs are simple, secure and user-friendly. The voters, candidates and their representatives, and the officials of the [EC] are aware of the nitty-gritty of the EVM system. They also check and ensure righteousness and integrity. Moreover, the incorporation of the VVPAT system fortifies the principle of vote verifiability, thereby enhancing the overall accountability of the electoral process."

For good measure, the honourable judges condemned the paper ballots to the dog-house largely based on hearsay and the dramatic hearing in the court of CJI on the ‘fraud’ committed by a Chandigarh official while counting 15 paper-votes cast in the mayoral election:

“We must reject as foible and unsound the submission to return to the ballot paper system. The weakness of the ballot paper system is well known and documented. In the Indian context, keeping in view the vast size of the Indian electorate of nearly 97 crores, the number of candidates who contest the elections, the number of polling booths where voting is held, and the problems faced with ballot papers, we would be undoing the electoral reforms by directing reintroduction of the ballot papers.”

Perhaps the honourable judges are not aware that in India, as per the Representation of the People Act, the paper ballot is the primary mode of polling (Section 59) while the EVM is only an option (Section 61A) to be adopted according “to the circumstances of each case”.

The extreme prejudice of the Supreme Court judges in dealing with this critical matter of the survival of India’s electoral democracy is revealed from this censure issued by Justice Dipankar Datta:

“It is of immediate relevance to note that in recent years there seems to be a concerted effort to discredit, diminish and weaken the progress of this great nation on every possible frontier. Any such effort, or rather attempt, has to be nipped in the bud. No constitutional court, far less this court, would allow such attempt to succeed as long as it [the court] has a say in the matter. I have serious doubt as regards the bona fides of the petitioning association when it seeks a reversion to the old order.”

With one stroke, sincere citizens craving to establish the “integrity of EVMs” have been condemned for ‘discrediting, diminishing and weakening the progress of this great nation’.

And expert opinions par excellence have been trashed.

By unilaterally upholding the ‘supremacy of EVMs’ without complying with essential democratic principles, the core of India’s election system has been eviscerated.

The bifocal provided in the judgment for a blinded voting system – keeping the symbol-loading units sealed and secured in a container along with the EVMs and checking/verifying the burnt memory/microcontroller in 5% of EVMs for any tampering or modification – have been effectively blackened by the EC in its subsequent standard operating procedures.

All these had a direct impact on the outcome of the parliament election of 2024 as brought out in the report of Voice For Democracy in July 2024. The report has flagged a cumulative hike of 4,65,46,885 (4.65 crore) votes from initial turnout figures to final turnout figures, indicating spurious injection through EVMs.

The percentage-point increase between initial turnout figures and the final turnout figures was on average 4.72% across the seven-phase poll and has led to the possible conclusion that the people’s mandate has been stolen in at least 79 constituencies across 15 states. In some states the hike was more than 12%.

The ADR also flagged significant discrepancies of 5,89,691 votes in as many as 538 constituencies between the votes cast and the votes counted in the 2024 Lok Sabha election. This overflowed into the Haryana assembly polls, wherein the BJP won a clear mandate and became a cloud-burst in the Maharashtra assembly election, wherein with a 7.83% hike after the polls got over, the BJP secured a historic strike rate of 89%.

A pattern has evolved, wherein election results are manufactured at will with the ever-compliant media standing ready to rationalise the most brazen ‘stealing of the people’s mandate’ with reams of cooked-up ‘survey reports’!

(To be Contd....on Page -27)

Bearing Witness:

Temples, mosques, courts and the judgements of history

As long as Indian courts are allowed to defy the spirit of the Places of Worship Act, 1991, bloodshed will follow the reopening of the wounds of history.

Harsh Mander



Police personnel outside the Shahi Jama Masjid in Sambhal on November 25. | AFP

In Sambhal, a Muslim-majority medieval town in Western Uttar Pradesh, six men have died after being gunned down on November 24 and many more injured. The police fired on protesters agitated by a survey of the Shahi Jama Masjid. The survey, set up to investigate if centuries earlier the mosque had been built after demolishing a Hindu temple, had been ordered by a local court. The judge was not constrained by the prohibitions imposed by The Places of Worship Act, 1991, that the religious character of no place of worship could be changed from what prevailed on the day India became free.

Sambhal was briefly the capital both of the Lodi dynasty and of the first Mughal emperor Babar. During the short reign of the emperor Babar from 1526-30, three major mosques were built. One was in Ayodhya, the second in

Panipat and the third in Sambhal. The mosque in Ayodhya became the locus of a nationwide militant movement that charred India's secular democracy and in significant ways transmuted the course of the Indian republic. Three decades after the mob demolition of the Babri Masjid, Hindutva activists now are seeking to light similar fires in Sambhal.

Advocate Hari Shankar Jain, also a lawyer in the Gyanvapi mosque-Kashi Vishwanath dispute, petitioned a local court with the claim that the Shahi Jama Masjid in Sambhal was built after destroying a temple to Lord Kalki. Other petitioners included Rishiraj Giri, the mahant of the Kalki Devi temple in Sambhal.

The mahant a year earlier had spoken to Hari Shankar Jain of his contention that the mosque was built after destroying a temple. In a foyer of his temple, the mahant recites this couplet to

his followers and the policemen who the Uttar Pradesh government has deputed for his protection: “Paanch sadi se jama rakt jab sholay ban kar khaulega, Babar bhi tab kabr se uth kar Harihar, Harihar bolega.” When the frozen blood of five centuries comes to a boil, even Babar will rise from his grave and chant ‘Harihar, Harihar’.

Himself in the beginning of the universe”. Incidentally, the petition makes these claims under the heading “historical facts”.

The petitioners went on to allege that when Mughal emperor Babar invaded India, he “destroyed a number of Hindu temples to show the might of Islam to make the Hindus feel that they are subjects of Islamic ruler”. “(I)n 1527-



A drawing of “Mosque at Sambhal in Uttar Pradesh (1789)”, by Thomas (1749-1840) and William (1769-1837) Daniell. Credit: in public domain, via Wikimedia Commons.

Their petition claimed that a “centuries old Shri Hari Har Temple dedicated to Lord Kalki” stands in the heart of the city of Sambhal which is being used “forcibly and unlawfully” as a mosque by the Jama Masjid Committee. “Sambhal is a historical city and holds unique significance deeply rooted in Hindu Shastras, according to which it is a sacred site where an incarnation of Lord Vishnu known as Kalki (will) manifest in the future, a Divine figure yet to make an appearance”.

Kalki, the petitioners explain “is believed to be the 10th and last incarnation of Lord Vishnu, destined to arrive in Kalyuga. His descent is believed to herald the end of the dark and tumultuous Kalyuga ushering in the next age, known as Satyuga”. The “Shri Hari Har temple of Sambhal was made by Lord Vishwakarma

28 Hindu Beg, the Lieutenant of (the) Babar Army partly demolished Shri Hari Har temple at Sambhal” and “the Muslims occupied the temple building to use the same as mosque (sic)”.

Just hour after that this application was filed, the same day – notably without issuing a notice or hearing the caretakers and clergy of the mosque – the civil judge of the Chandausi court, Aditya Singh, on November 19 ordered a survey with videography of the mosque by a team led by an advocate commissioner, to be completed by November 29.

With the same unseemly haste, the team, which also significantly included the subdivisional magistrate as a representative of the state government, arrived at the mosque that very evening and commenced the survey. Neither the mosque management nor local

residents mounted any resistance to the survey that day because they were taken by surprise.

But when five days later, the team arrived again with a massive posse of armed policepersons and a crowd raising slogans of Jai Shri Ram, the sub-divisional magistrate peremptorily ordered measurement of the underground tank in which worshippers would wash themselves before prayer. Rumours spread that the mosque would be demolished. Agitated crowds rapidly gathered, some people threw stones, and the police began to fire at the crowds. Four men were killed and numerous others were injured close to the mosque. At least two more died later.

The police later mounted their defence that they had not shot to kill. They had deployed only rubber and pellet guns. The bullets that claimed lives, they maintained, were fired from country-made weapons and not police rifles. But local people allege that it has become standard police practice for the police to shoot to kill at crowds with country-made weapons so that the resultant deaths could never be traced back to the police.

A judicial enquiry has been ordered into the incident. Given past experience, there is not much hope for courageous truth-telling that we might vest in this process. But whatever the report finally avers, there can be little dispute that it was the order of the local judge to institute a survey of the mosque, and the willing participation in the survey of a senior officer of the district administration, that ignited the fires that grew quickly into the conflagration that claimed so many young lives.

The hasty order was unlawful, first, because the judge passed his directions without even hearing the management and clergy of the medieval mosque. It did not allow them time to challenge the order in the High Court. What is more, the Shahi Jama Masjid in Sambhal was notified a “protected monument” as far back as on December 22, 1920, under the Ancient

Monuments Preservation Act, 1904, and later was also declared a Monument of National Importance. These qualified the mosque for special protection by the state.

But even more culpably, the order defiantly violated the law of the land. The Places of Worship Act, passed by Parliament in 1991, unequivocally bars any change in the religious character of any place of worship from what prevailed in 1947 (except on the site on which the Babri Masjid stood in Ayodhya), and prescribes stringent punishment to anyone who seeks to do so.

The Shahi Jama Masjid in Sambhal is a 16th-century mosque. It was indisputably a mosque also in 1947. Based on a simple reading of the 1991 statute, the judge should have refused to admit the petition, because the central redress that it sought – permission for Hindu worshippers to pray at the mosque – was one that the law did not permit. Arguably, the judge should have also prosecuted the applicants for seeking to change the status of the mosque, which the 1991 statute made punishable with three years’ imprisonment.

However, the civil judge in Sambhal is not alone in passing such an unlawful order. In the past two years, other local courts have delivered similar rulings, which have been upheld by various High Courts. Superior courts in recent years have held back from upbraiding, or even restraining, lower courts from entertaining petitions that seek to alter mosques into Hindu temples, title suits in disputed religious sites and suits claiming access or the right to Hindu worship in mosques.

Much of this was enabled by a highly consequential observation made by the former Chief Justice DY Chandrachud in the Gyanvapi mosque case, that opened the floodgates for this series of orders by courts that run contrary to the 1991 law. Five Hindu women had filed an application in the Varanasi Civil Court in August 2021, seeking permission to worship Hindu idols.

They claimed that these were located within the mosque, and that the mosque was built after the Kashi Vishwanath temple was razed by Mughal Emperor Aurangzeb. In April 2022, the civil court judge ordered a “videographic survey” (similar to the one later ordered in Sambhal) to investigate the claim. This order was upheld by the Allahabad High Court. The Management Committee of the mosque then sought the intervention of the Supreme Court, arguing that the survey violated the Places of Worship Act.

In May 2022, Chief Justice DY Chandrachud, when hearing the matter, observed that although changing the nature of the religious place is barred under the 1991 law, the “ascertainment of a religious character of a place, as a processual instrument, may not necessarily fall foul of the provisions of Sections 3 and 4 (of the Act)”. What this meant was that the 1991 law does not bar investigations into what was the nature of the place of worship on August 15, 1947. What the law only bars is changing the religious character of the place of worship after the study.

This was an extraordinary and perplexing observation by the head of the highest court of the land. If you allow the survey of a mosque to determine if a temple lay below it, but then prohibit actions to restore a temple at that site, this is a surefire recipe for fostering resentment, hate and fear that could detonate for years in bitter feuds between people of diverse faiths.

His observation permitted the order of the civil judge in Sambhal that ultimately resulted in the death of six men. It authorised what the *Supreme Court Observer* describes as “a bevy of challenges to the religious character of places of worship” in the wake of Gyanvapi. “The Mathura District Court admitted a petition claiming the presence of Hindu ‘artefacts’ at the Shahi Idgah Masjid. In Karnataka, the Narendra Modi Vichar Manch is seeking permission to allow prayers inside a mosque in

Srirangapatna – claiming it was built on top of a Hanuman temple during the reign of Tipu Sultan. In these cases, and in many others, ‘surveys’ are being sought...”.

There was also a suit demanding restoration of the right to offer puja in the Qutub Minar complex on the grounds that it was originally a complex of 22 Hindu and Jain temples. The newest claim, even as I write this article, is by the Hindu Sena chief that the Ajmer Sharif Dargah – the mausoleum of the Sufi saint Khwaja Moinuddin Chishti – is actually a Shiv Temple. The civil judge thought it fit to admit even this petition and issue notices.

Was Justice DY Chandrachud correct in his interpretation of the intent of the 1991 law when he allowed investigations into whether Hindu temples lay under mosques that stood in 1947? Or was he gravely misled? The 2019 Ayodhya judgement (of which he has come out as the author) had affirmed that the 1991 law was passed to ensure that history could not be used as “a tool to dredge up old disputes and start conflicts anew”?

By permitting surveys to investigate if mosques indeed were built after destroying Hindu temples, did he not authorise precisely the reverse? Did he not enable Hindutva organisations, often supported by the ruling party and elected governments, to prise open the past, revive old combats and create new ones, and in this way perilously deepen communal fractures and fuel religious battles that could rage over generations?

To answer this, to affirm the intent of the Places of Worship Act, I went back to the debates in Parliament when the Bill was introduced and passed. Reading these parliamentary records stirred memories of a time three decades back when political leaders were far more articulate and impassioned than they are today in their defence and celebration of the ideals of secularism and pluralism.

The year was 1991. Forty-four years had passed since the Partition riots had taken a million lives in a tumult of religious hatred, and Mahatma Gandhi was assassinated by a religious bigot. The first decade-and-a-half of freedom had been marked by relative communal peace, but violent communal conflicts resurged in the country after the Jabalpur riots of 1961. By 1991, communal tempers in the country were smouldering. Two years earlier, senior Bharatiya Janata Party leader Lal Krishna Advani had set out on his Rath Yatra starting from Somnath demanding the construction of a Ram Temple at the site of the Babri Masjid in Ayodhya.

Wherever the Yatra traversed, it left a combustible trail of communal hatred and bloodletting. The Babri Masjid was still standing at Ayodhya. But Hindutva ideologues had begun to speak shrilly of their resolve to “reclaim” 3,000 mosques across the country. Senior leaders of the BJP threatened to launch campaigns similar to the one for a Ram Temple in Ayodhya, to lay claim to the Gyanvapi mosque in Varanasi and the Shahi Idgah mosque in Mathura.

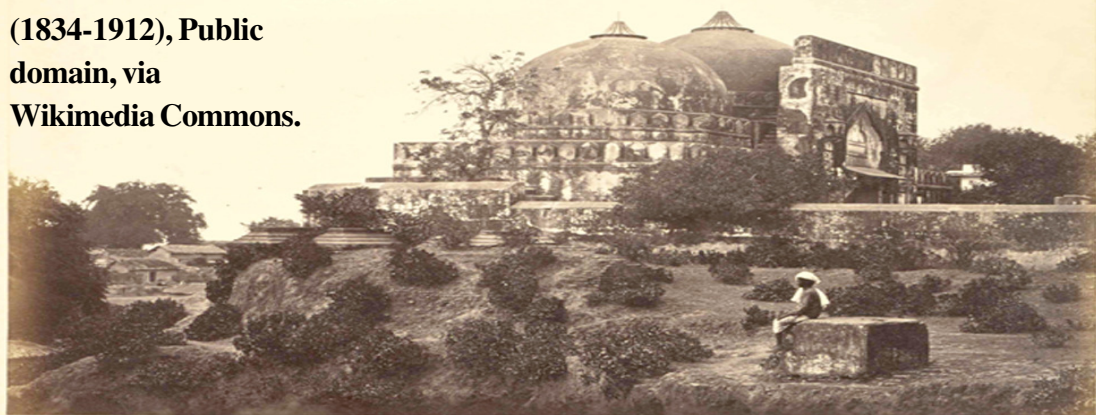
It was in these times that the Home Minister SB Chavan introduced the bill in Parliament, with words that are even more incandescent

today: “We see this Bill as a measure to provide and develop our glorious traditions of love, peace and harmony,” he declared. “The country’s tradition of amity and harmony came under severe strain during the pre-Independence period. After Independence, we have set about healing the wounds of the past and endeavoured to restore our traditions of communal amity and goodwill to their past glory. I am sure that enactment of this Bill will go a long way in helping to restore communal amity and goodwill”.

He explained that his government did “not to (intend to) create new disputes and to rake up old controversies which had long been forgotten by the people”. Instead, it “considered (it) necessary to adopt these measures in view of the controversies arising from time to time with regard to conversion of places of worship which tend to vitiate the communal atmosphere”.

Predictably, the Bill was bitterly opposed by the BJP members. Advani, the leader of the opposition, led a walk-out to protest the Bill with the indictment, “I believe that this Bill is thoroughly ill-conceived. The Bill is totally unwarranted. We cannot associate ourselves

A photograph of the Babri Masjid. Credit: Samuel Bourne (1834-1912), Public domain, via Wikimedia Commons.



with this Bill. We are opposing its introduction and in protest, we walk out”.

An important leader of the Ram Janmbhoomi movement, Uma Bharti, passionately argued in the house against the Bill. “Can we alter historical facts through a manipulation of dates? Are we scared to face history?” she asked rhetorically. She spoke of the shame she felt when she visited Varanasi and saw in the campus of the mosque the ruins of a temple. Temples destroyed in history need to be returned, she argued, in order “to ensure that our future generations may live in harmony. Ask forgiveness from the Lord for all wrongs done in the past and make all our efforts to avoid bloodshed in the future”. She alleged, “By maintaining the status quo of 1947, it seems you are following a policy of appeasement.”

Another BJP MP Ram Nagina Mishra described this as “a black Bill...introduced with a view to disintegrate the country...” He claimed that “it is on record” that not a single mosque has been damaged through India’s history. He appealed that the Bill be set aside “so as to keep the nation united and devoid of communal flare up”.

Veteran BJP leader Ram Naik was even more withering in his criticism of the bill, describing it as the “blackest” bill in Indian Parliament. This bill, he claimed, sought to “legalise all encroachments upon Hindu Temples made during Mughal and British rule”. It wants to “pay premium to those who have inflicted religious insults on Hindu places of worship”.

But non-BJP parliamentarians across parties spiritedly defended the bill. Mani Shankar Aiyar responded to Uma Bharti. She “told us that when she had visited Varanasi and saw a temple and a mosque together, a feeling came to her that the temple had been demolished. She considered it to be a disgrace to Hinduism. According to her a Muslim king had built a mosque there. There is only one difference between her and myself, to what she thinks is a

sign of servility, I take that thing as a symbol of secularism... When I come across a temple and a mosque together, then I feel that it is a secular country”. He went on to affirm that “as we cannot think of India without Islam, in the same way we cannot think of Islam without India. Islam and India are linked in the same way as both myself and Uma Bhartiji have links with humanity”.

An MP from the Communist Party of India (Marxist), Malini Bhattacharya, said that the cut-off date in the Bill was “crucial because on that date [August 15, 1947], we are supposed to have emerged as a modern, democratic and sovereign state thrusting back such barbarity into the past once and for all. From that date, we also distinguished ourselves... (by establishing) a state which has no official religion and which gives equal rights to all the different religious denominations. So, whatever may have happened before that, we all expected that from that date, there should be no such retrogression into the past.”

Congress MP KV Jacob spoke glowingly of Trivandrum, the capital of his state Kerala, where in the same compound you see a “beautiful temple”, a “beautiful mosque” and a “beautiful church” together. He spoke of the custom in every faith that when you worship in a shrine of your faith, you pray also in shrines of other faiths. “There is only one God”, he averred, who we worship in different ways. It is a tragedy that we fighting in the name of religion. Enough blood has been spilled; we killed even the father of the nation. He was certain that even if Lord Ram appeared he would instruct his followers to instead build thousands of shelters for homeless people. He spoke of his own religious faith: “When I worship Jesus Christ and hate my neighbours who are Hindu or Muslim, then I am not a true follower of Jesus Christ”.

The Minister of State for Home Affairs then, MM Jacob, similarly argued that the “essence of all the religions in this country...is love and

affection towards one another. I have not come across any religion that preaches hatred. So, when all the religions stand for love with one another and to serve humanity and sacrifice life-if it is necessary for our brothers and sisters-I do not find any reason at all for a fight of this nature... If you are really religious...our effort (would be) to establish peace at any cost”.

Ram Vilas Paswan agreed that “the very objective of religion is to remove darkness and provide light and knowledge. A lamp can be used to light up a house as well as to burn it down. Unfortunately, today, religion is being used to spread hatred and disharmony”. “(T)oday the question is not”, he said, “of Hindu-Muslim, nor of temple, mosque or gurudwara. Today, the issue at stake is our Constitution. The issue is to save that India, for whose freedom Hindus, Muslims, Sikhs and Christians had fought together...” Such a statute was imperative “because India is the home of people belonging to many religious denominations. Our country is like a garden” in which “not one but all the flowers will be given the opportunity to blossom”. He said that “this country cannot afford to squabble over trifling issues like mandir or masjid. We have far more important problems before us – the problems of poverty, that of unemployment, that of illiteracy, that of rural water supply”.

“I consider that the anguished soul of India does not today cry for a new temple or a mosque or a gurudwara”, senior Marxist parliamentarian Somnath Chatterjee declared. “What it seeks is a dignified and civilised living for all its people, irrespective of caste, creed or religion. It clamours that all our people have two square meals a day have a roof over their heads, ability to read and write, and freedom from exploitation, hunger, starvation, unemployment, ill-health and squalor”.

The significance and the purpose of the Places of Worship Act, so eloquently described

by the parliamentarians of that time, was recalled as recently as in 2019 by the Supreme Court. In its landmark but highly contestable ruling awarding the land on which the Babri Masjid had stood for centuries for the building of a Ram Temple, it observed that the cut-off date in the law of August 15th, 1947 had been fixed to acknowledge that India’s Independence presented an opportunity to “heal the wounds of the past”.

In mandating the preservation of the religious character of places of public worship as they existed on August 15, 1947, “Parliament determined that independence from colonial rule furnishes a constitutional basis for healing the injustices of the past by providing the confidence to every religious community that their places of worship will be preserved and that their character will not be altered.” The judges held that the “court cannot entertain claims that stem from the actions of Mughal rulers against Hindu places of worship in a court of law today. For any person who seeks solace or recourse against the actions of any number of ancient rulers, the law is not the answer...”

The judgement significantly linked this statute to the core values of the constitution. “The state has, by enacting the law, enforced a constitutional commitment and operationalised its constitutional obligations to uphold the equality of all religions and secularism, which is a basic structure of the Constitution.”

If indeed the Places of Worship Act, 1991, is critical to preserve the secular character of the Constitution, we have to conclude that Justice Chandrachud was culpably in error when he observed that although the 1991 statute barred converting the religious character of a place of worship, it was still lawful to determine its original character. As Sanjay Hegde, senior advocate in the Supreme Court, argued while speaking to *Frontline*, even if the surveys showed the existence of a structure 400 years ago, the legal character of that place would not

change because of the 1991 law. “We are not concerned with what happened 400 years ago but what the status was on August 15, 1947”.

Syed Ali Nadeem Rezavi, a history professor at Aligarh Muslim University, secretary of the Indian History Congress, agreed. “Even if (surveys reveal that) a temple was there, how does it make a difference? Aurangzeb was a sovereign emperor not guided by a democracy and a Constitution. He was a man of the 17th century. Are we also going to punish Pushyamitra Sunga, who went on a demolition spree against Buddhist temples?” he asked. “I am not concerned about what the BJP is doing. I am concerned that those sitting in our highest courts have forgotten the Constitution and all the Acts of Parliament to protect the heritage structures.”

The truth is that the fateful observation of former Chief Justice DY Chandrachud that the 1991 law does not bar investigating the religious character of places prior to 1947 has spawned a rash of court orders to survey historical mosques to determine if they were built centuries back after destroying temples. It has enabled Hindutva organisations, supported by the ruling party and elected governments, to dangerously, even recklessly prise open the past. It has helped revive old contestations and manufacture new ones, and through this perilously exacerbated communal fractures, fuelling religious battles that could rage for generations. Of all of Justice Chandrachud’s controversial judicial acts, history may judge this to have been the most damaging to India’s social fabric.

Justice Sanjiv Khanna, who succeeded Justice DY Chandrachud as chief justice, did well to stay the survey of the mosque in Sambhal to douse the fires there. The court directed the litigants to approach the High Court for further directions. But the chief justice did nothing to overturn the observation of his predecessor that greenlit the survey in Sambhal and of several other mosques. No High Court can reverse the

interpretation of law by the Supreme Court, it is only the Supreme Court that is empowered to do this. As long as the former chief justice’s observation stands, the nightmare continues to loom of yet more temple-mosque combats ignited by court-ordered surveys further gashing the soul of the country.

The purpose behind the Places of Worship Act 1991, so powerfully articulated by the parliamentarians of that time, was to secure India’s secular democracy. The violent contestation over a single mosque, in Ayodhya, tore the nation apart for a generation and longer. Its ruptures still run deep. By allowing courts across the land to defy the spirit of the law and reopen the wounds of history, India’s highest judiciary, its local courts, the largest political party and even the feeble opposition have profoundly failed the people of India.

I am grateful to Syed Rubeel Haider Zaidi for his research support for this article.

Courtesy **Scroll.in**, 3 December 2024. 🌈

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Justice Chandrachud's...

Evisceration is the act of removing the internal organs, or viscera, from a body cavity. With the way they are being conducted, this is what is happening to India’s elections and their integrity.

This evisceration, that has facilitated EC in conducting brazenly unfair elections, was made possible because of former CJI Chandrachud’s dishonest abuse and misuse of his powers as master of the roster.

The tragedy is that unless remedied and rectified by the Supreme Court itself, this horrid mega-legacy of Justice Chandrachud could sink India’s electoral democracy itself!

M.G. Devasahayam, *formerly of the IAS, is coordinator, Citizens Commission on Elections.*

Courtesy **The Wire.in**, 29/Nov/2024 🌈

The Humanist Frame

Body, Brain, Mind and Soul

(Summarized by **Vinod Jain**)

Sir Russell Brain

Historical Introduction

Primitive man understands little of the things which surround him, and is largely at the mercy of unknown forces. He interprets these as good or harmful spirits or gods with wills like his own. The more he comes to understand the workings of nature, the less he needs to postulate animistic activities to account for them, but that is not true of primitive man only. Samuel Butler wrote: 'God makes the grass grow because we do not understand how the air and earth and water near a piece of grass are seized by the grass and converted into more grass; but God does not mow the grass and make hay of it. As soon as we understand a thing we remove it from the sphere of God's action.' Similarly, when the cause of epidemics was unknown, they were often regarded as God's will, and a punishment for sin. But as soon as a disease was discovered to be due to a germ, and spread by bad hygiene, the Deity was no longer held responsible for it.

With one part of his mind the dualist thinker accepts evolutionary theory, which implies the gradual development of mind and a naturalistic interpretation of consciousness and values: with another part he derives his soul and values from a supernatural source. Different revelations, or even different deductions from the same revelations, lead to conflicting ethical judgements on diet, marriage, divorce, birth-control, racial discrimination, war and the atom bomb, and in the last resort those who claim that one revelation is 'higher' than another tend to justify their view by appealing to the revelation itself.

Initially common sense seems to support

dualism. For primitive man the difference between a living man and his dead body is explained by the departure of the soul from the body. Plato regarded soul and body as independent entities, the soul surviving the body. Jewish teaching on the subject was monistic. Christianity took over this monistic idea from Judaism, but added the idea of personal immortality.

Christianity received from Platonism a stimulus to a belief in the dichotomy of body and soul. Augustine emphasized the immateriality of the soul. A sect of his, associated matter with evil, and were not without influence on Christianity. Aquinas, distinguished between a lower, sensuous, and a higher, rational grade of consciousness. Soul is immortal, but body, in a changed form, is ultimately to be reunited with it.

Thus Christian thought on the body-mind relationship, as Robinson points out, is fundamentally monistic, and 'involves the rejection of dualism'. Nevertheless under the influence of Platonism, it has always been liable to lapse into dualism, and identify the personality with the soul viewed in isolation from the body.

Eastern thought on the subject differs so much from Western that it can hardly be expressed in the same terms. To the Chinese and to some Indian schools of thought it appeared obvious that the individual was a microcosm or mirror of the universe, and subject therefore to the same laws which were invoked to explain the universe. The Chinese did not believe in a mind or soul which survived the body: in India there were several different conceptions, and both Hindu and Buddhist

beliefs included the idea that the psychical faculties survived the body, the individual soul being a particle of a world soul. The doctrine of the transmigration of the soul envisages its re-embodiment in a succession of lives, its fate being determined by the individual's behaviour. The aim is to escape from this by attaining Nirvana, which means deliverance.

The modern form of the problem of the brain- mind relationship dates from Descartes. Descartes, arguing from the observation that many human movements and other activities were automatic, concluded that animals were pure automata, devoid of mind or consciousness. Man alone possessed a mind guiding the automatisms of his body, and distinguished from it by being unextended and indivisible instead of extended and divisible. This doctrine had many consequences. The most obvious question it raised was how body and mind could act upon one another. Moreover, if mental activities were to be regarded as parallel with mechanically-determined cerebral ones, it would seem that they too must be determined.

It should be clear by now that questions involving the use of the terms body, mind, and soul, are beset by confusions originating in the past. Scientists, philosophers, and theologians have differed as to what constitutes body and mind, and as to the distinction between mind and soul.

Brain and Mind

I shall use the term 'mind' to describe our subjective experiences, such as thinking, knowing, feeling and willing. We infer the existence of mind in other people, and most animal psychologists infer mental activities in animals, from their behaviour.

Ignorance of the functions of the brain has until recently favoured the dualist view. Some account of this new knowledge will now be given.

A very large amount of experimental work has been carried out upon animals with the

object of ascertaining how their behaviour can be correlated with the activity of their nervous system. Experimental lesions have demonstrated the dependence of learning, perceptual discrimination and memory upon particular brain areas. Genetics is elucidating the inheritance of behaviour traits, including those involving qualitatively different sensory experiences; and evolutionary theory, as will be shown later, has thrown light upon the role of mental activity in social and cultural evolution.

Turning now to man, we may begin with the familiar observation that the failure of the brain to develop, limits the development of the mind and leads to mental deficiency and, conversely, a general deterioration of brain function produced by disease in adult life is paralleled by a progressive deterioration in mental function.

In this connection, behaviour disorders are of particular general interest, because it is often held that a sense of social and moral responsibility is a distinctively human characteristic.

Studies of frontal lobe function in man have shown that, this part of the brain is particularly concerned in the integration of personality. Something has been learned about the physiological basis of emotion and its control, and it is interesting that a powerful emotion, such as intense fear, may be experienced without any other cause than a localized discharge of nerve impulses which forms part of an epileptic attack.

Memory plays such a vital part in maintaining the personality, that some dualist philosophers have maintained with Bergson that it is a function of an independent mind, being merely brought into play, as it were, by the activity of the brain.

Several disorders of the brain are discussed

The foregoing are all examples of disorders

of mental functions produced by damage to the brain. None of the instances cited supports the view that mental functions exist independently of the brain.

The remarkable temporary effects upon perception and feeling of the hallucinogenic drugs, mescaline and lysergic acid, and the therapeutic value of the 'tranquilizers', are further evidence of the importance of the physical basis of the mind; even though as yet they do no more than hint at possible causes of mental illness.

At this point it is natural to ask how far neurophysiology has progressed towards an understanding of the physiological basis in cellular function of the highest mental functions, such as conceptual thought, and memory. What emerges from the facts we already know is that knowledge of brain physiology both in man and animals has an ever increasing contribution to make to our understanding of the highest mental functions—thought, memory, feeling and social responsibility.

The Physiological Interpretation of Mind

So far we have been considering disturbances of mental function which have to be explained in terms of disordered brain function. Now let us turn to the explanation of the disorders of the mind in psychological terms. The patient's present mental symptoms may be traced back to, and understood in terms of, his previous mental experiences, which constituted his reactions to what happened to him in the past. Psychoanalysis is of course the outstanding example of a system of psychopathology which seeks to explain psychological symptoms in this way, with particular reference to the experiences of infancy and the early years of life, but there are other schools which put forward similar claims, with different interpretations. Freud's doctrines are still being criticized and modified, but it seems likely that at least two of his ideas are of great and permanent importance—his

concept of unconscious mental activity, and his stress upon the determining force of infantile experiences on subsequent psychological development, which has important ethical implications.

The Evolution of Mind

The monistic view implies that mind is present from the beginning, inherent in the stuff of which the world is made. Seen from one aspect this is matter, from the other, mind, but each at first is extremely simple in organization. One of the most striking developments in recent evolutionary thought has been the increasing recognition of the part played by mind, or behaviour, in the evolutionary process, for behaviour may influence the survival value of genetic changes as well as sometimes modifying the environment itself. The two cardinal characteristics of the correlative development of matter and mind are that increasing complexity of material organizational units is paralleled by increasing complexity of mind, and that this developing process is not throughout uniform and gradual, but after a period of gradual progress reaches a point at which a sudden disturbance of equilibrium occurs, which permits the emergence of new qualities and activities. One such was the transition from 'non-living' to 'living' matter: a much later one with which we are more particularly concerned, was that which characterized the development of man from his hominid ancestors, namely the development of conceptual thought and the addition of self-consciousness to consciousness.

Before the development of speech the mind of the individual exercised no influence on later generations, except in so far as its simple patterns of behaviour might be copied by its offspring, or other members of its social group. Speech at once made it possible for the experiences of the individual to be handed on in the social group in the form of verbal tradition.

(To be Contd....on Page -41)

Law Article :

Right To Get Legal Aid Is Accused's Fundamental Right; Legal Aid Must Be Effective; Prosecutors Must Ensure Fair Trial: SC Issues Directions On Role Of Public Prosecutors & Appointment Of Legal Aid Lawyers

Sanjeev Sirohi

It is most significant to note that while most commendably upholding the right of the accused to get legal aid, the Supreme Court in a most learned, laudable, landmark, logical and latest judgment titled *Ashok vs State of Uttar Pradesh* in Criminal Appeal No. 771 of 2024 and cited in Neutral Citation No.: 2024 INSC 919 and so also in 2024 LiveLaw (SC) 941 in the exercise of its criminal appellate jurisdiction that was pronounced as recently as on December 2, 2024 has minced absolutely just no words to make it indubitably clear that right to get legal aid is the fundamental right of the accused. It is also made clear that the legal aid must be effective. The Bench made it crystal clear that ineffective legal representation could lead to the violation of fundamental rights.

Above all and most intriguingly, the top court noted that no lawyer represented Ashok during crucial stages of trial like even the statement of the accused was recorded under Section 313 of the CrPC was done in absence of lawyer which is the stage when incriminating material is put to the accused by the prosecution and even the legal aid lawyer provided to him was absent from several hearings when the trial was conducted. It also cannot be glossed over that while going through the records, the Bench noted that the legal aid lawyer did not put the relevant questions during the cross-examination of witnesses with the legal aid lawyer getting changed thrice during the entire trial. The evidence of more than one prosecution witness was recorded in the absence of legal aid advocate.

Moreover, we cannot be oblivious of the undeniable fact that Article 39A of Constitution obligates the State to ensure that free legal aid is available to the accused. It was also made crystal clear by the top court that prosecutors must ensure fair trial. We need to note that the Apex Court's judgment was delivered while acquitting Ashok who was previously sentenced in a 2009 rape and murder case in Uttar Pradesh on the ground that he was not properly represented by a lawyer during the trial and as the incident was fifteen and a half years old, it rejected the option of sending the matter back to the Trial Court. The Apex Court held that, "After such a long gap it will be unjust if the appellant is now told to explain the circumstances and material specifically appearing against him in the evidence."

It was also made explicitly clear by the Apex Court that if effective legal aid is not made available to an accused, unable to engage an advocate, it will amount to infringement of his fundamental rights guaranteed by Article 21 of the Constitution. It was due to blatant disregard of procedural aspects that Apex Court granted bail to Ashok in May 2022. The Apex Court most sagaciously issues the most commendable slew of directions on the role of public prosecutors and appointment of legal aid lawyers. Very rightly so!

At the very outset, this brief, brilliant, bold and balanced judgment authored by Hon'ble Mr Justice Abhay S Oka for a Bench of the Apex Court comprising of himself, Hon'ble Mr Justice Ahsanuddin Amanullah and Hon'ble Mr Justice

Augustine George Masih sets the ball in motion by first and foremost putting forth in para 1 that, “This is a very unfortunate case. The victim of the offence was ten years old at the time of the incident. On 27th May 2009, around 9.00 a.m., she and her first cousin, PW-2, had gone to a pasture to graze her goats. The age of PW-2 was seven years at that time. As the victim was thirsty, she went near a tubewell cabin. The appellant-accused was working as an operator of the tubewell appointed by the owner of the tubewell. The victim requested the appellant to provide drinking water. The allegation of the prosecution is that, with evil intentions, the appellant took her inside the cabin. He committed rape on her and, after that, murdered her. According to the prosecution’s case, PW-2 saw the appellant forcibly taking the victim inside the cabin and raping her. By 11.00 a.m., PW-2 returned to PW-1, the victim’s father. PW-1 was the uncle of PW-2. After PW-2 narrated the story to PW-1, he went to the tubewell cabin to find the victim and found the dead body of the victim hidden in a haystack in that cabin. On being questioned by PW-1, the appellant fled from the spot and thereafter, PW-1 registered the First Information Report.”

As we see, the Bench then discloses in para 2 that, “The Trial Court, by judgment and order dated 24th December 2012, convicted the appellant for the offences punishable under Sections 376, 302 and 201 of the Indian Penal Code (for short, ‘the IPC’). The Trial Court also convicted the appellant under the provisions of Section 3(2)(v) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short, ‘the SCST Act’). The Trial Court imposed capital punishment.”

As it turned out, the Bench enunciates in para 3 that, “The High Court heard the reference under Section 366 of the Code of Criminal Procedure, 1973 (for short, ‘the CrPC’) with an appeal preferred by the appellant. Though the High Court confirmed the

conviction, the death penalty was set aside and the appellant was sentenced to undergo life imprisonment for the remainder of his natural life subject to the exercise of powers of grant of remission or grant of clemency by the constitutional functionaries.”

It is worth noting that the Bench notes in para 4 that, “The present appeal is against the judgments mentioned above. By order dated 20th May 2022, this Court granted bail to the appellant after noting that he had undergone actual incarceration for about 13 years. We may note here that earlier, learned counsel Shri M Shoeb Alam was appointed as amicus curiae to espouse the cause of the appellant. After his designation as a senior advocate, he continued to assist this Court. Shri Talha Abdul Rahman, Advocate-on-Record, was appointed amicus curiae to assist the learned senior counsel.”

It would be worthwhile to note that the Bench notes in para 20 that, “Thus, the right to get legal aid is a fundamental right of the accused, guaranteed by Article 21 of the Constitution. Even under Section 303 of the CrPC, every accused has a right to be defended by a pleader of his choice. Section 304 provides for the grant of legal aid to an accused free of costs. When an accused has either not engaged an advocate or does not have sufficient means to engage an advocate, it is the trial court’s duty to inform the accused of his right to obtain free legal aid, which is a right covered by Article 21 of the Constitution of India. Sub-Section (1) of Section 304 reads thus:

“304. Legal aid to accused at State expense in certain cases.—(1) Where, in a trial before the Court of Session, the accused is not represented by a pleader, and where it appears to the Court that the accused has not sufficient means to engage a pleader, the Court shall assign a pleader for his defence at the expense of the State.

(2)

(3)” (emphasis added)

Sections 340 and 341 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (for short, 'BNSS') are the Sections which correspond to Sections 303 and 304 of the CrPC. Thus, under Section 304 of the CrPC, it is the duty of the Court to ensure that a legal aid lawyer is appointed to espouse the cause of the accused."

Most forthrightly, the Bench points out in para 22 that, "At the stage of framing the charge, the appellant was not represented by an advocate. From 8th June 2011, the appellant never declined legal aid. We are surprised to note that the examination-in-chief of PW-1 was allowed to be recorded without giving legal aid counsel to the appellant, who was not represented by an advocate. If the examination-in-chief of a prosecution witness is recorded in the absence of the advocate for the accused, a very valuable right of objecting to the questions asked in examination-in-chief is taken away. The accused is also deprived of the right to object to leading questions. It will not be appropriate to comment on the capabilities of the two legal aid lawyers appointed in this case as they are not parties before us. But suffice it to say that the cross-examination of the witnesses was not up to the mark. Some of the crucial questions that normally would have been put in the cross-examination have not been asked."

CONCLUDING PART

Most significantly, the Bench encapsulates in para 23 what constitutes the cornerstone of this notable judgment postulating that, "Our conclusions and directions regarding the role of the Public Prosecutor and appointment of legal aid lawyers are as follows:

- a. It is the duty of the Court to ensure that proper legal aid is provided to an accused;
- b. When an accused is not represented by an advocate, it is the duty of every Public Prosecutor to point out to the Court the requirement of providing him free legal aid. The reason is that it is the

duty of the Public Prosecutor to ensure that the trial is conducted fairly and lawfully;

- c. Even if the Court is inclined to frame charges or record examination-in-chief of the prosecution witnesses in a case where the accused has not engaged any advocate, it is incumbent upon the Public Prosecutor to request the Court not to proceed without offering legal aid to the accused;
- d. It is the duty of the Public Prosecutor to assist the Trial Court in recording the statement of the accused under Section 313 of the CrPC. If the Court omits to put any material circumstance brought on record against the accused, the Public Prosecutor must bring it to the notice of the Court while the examination of the accused is being recorded. He must assist the Court in framing the questions to be put to the accused. As it is the duty of the Public Prosecutor to ensure that those who are guilty of the commission of offence must be punished, it is also his duty to ensure that there are no infirmities in the conduct of the trial which will cause prejudice to the accused;
- e. An accused who is not represented by an advocate is entitled to free legal aid at all material stages starting from remand. Every accused has the right to get legal aid, even to file bail petitions;
- f. At all material stages, including the stage of framing the charge, recording the evidence, etc., it is the duty of the Court to make the accused aware of his right to get free legal aid. If the accused expresses that he needs legal aid, the Trial Court must ensure that a legal aid advocate is appointed to represent the accused;
- g. As held in the case of *Anokhilal vs State*

of MP (2019) 20 SCC 196, in all the cases where there is a possibility of a life sentence or death sentence, only those learned advocates who have put in a minimum of ten years of practice on the criminal side should be considered to be appointed as amicus curiae or as a legal aid advocate. Even in the cases not covered by the categories mentioned above, the accused is entitled to a legal aid advocate who has good knowledge of the law and has an experience of conducting trials on the criminal side. It would be ideal if the Legal Services Authorities at all levels give proper training to the newly appointed legal aid advocates not only by conducting lectures but also by allowing the newly appointed legal aid advocates to work with senior members of the Bar in a requisite number of trials;

- h. The State Legal Services Authorities shall issue directions to the Legal Services Authorities at all levels to monitor the work of the legal aid advocate and shall ensure that the legal aid advocates attend the court regularly and punctually when the cases entrusted to them are fixed;
- i. It is necessary to ensure that the same legal aid advocate is continued throughout the trial unless there are compelling reasons to do so or unless the accused appoints an advocate of his choice;
- j. In the cases where the offences are of a very serious nature and complicated legal and factual issues are involved, the Court, instead of appointing an empanelled legal aid advocate, may appoint a senior member of the Bar who has a vast experience of conducting trials to espouse the cause of the

accused so that the accused gets best possible legal assistance;

- k. The right of the accused to defend himself in a criminal trial is guaranteed by Article 21 of the Constitution of India. He is entitled to a fair trial. But if effective legal aid is not made available to an accused who is unable to engage an advocate, it will amount to infringement of his fundamental rights guaranteed by Article 21;

l. If legal aid is provided only for the sake of providing it, it will serve no purpose. Legal aid must be effective. Advocates appointed to espouse the cause of the accused must have good knowledge of criminal laws, law of evidence and procedural laws apart from other important statutes. As there is a constitutional right to legal aid, that right will be effective only if the legal aid provided is of a good quality. If the legal aid advocate provided to an accused is not competent enough to conduct the trial efficiently, the rights of the accused will be violated.”

As a corollary, the Bench then holds in para 24 that, “For the reasons recorded earlier, the appeal is allowed. The impugned judgments and orders are set aside, and the appellant is acquitted of offences alleged against him. The bail bonds of the appellant stand cancelled.”

Be it noted, the Bench then directs in para 25 noting that, “A copy of this judgment shall be forwarded to all State Legal Services Authorities to enable the authorities to take necessary measures.”

Finally, the Bench then concludes by holding in para 26 that, “We record our appreciation for the able assistance rendered to the Court by the learned senior counsel Shri M.Shueb Alam, appointed to espouse the cause of the appellant. We must also record that the learned senior counsel, Shri K.Parameshwar, appearing for the respondent, has fairly assisted the Court.”

(To be Contd....on Page -41)

...Addressing Historical Traumas

(*Han Kang: B. 1970*)

Dr. Ashok K. Choudhury

When women have been treated fairly unequally, and their opinion and voices have been suppressed in our society and culture for centuries now, the 2024 Nobel Prize in Literature awarded to Han Kang, who has the ability to confront historical traumas and known for powerful and evocative prose that delves into trauma, memory and the fragility of human life. A voice for women, for the truth and, above all, for the power of what literature can be, Kang, the first South Korean writer and 18th woman to receive the prestigious honour, won for her “intense poetic prose that confronts historical traumas and exposes the fragility of human life”. Her “empathy for vulnerable, often female, lives in palpable, and reinforced by her metaphorically charged prose”, said Anders Olsson, Chair of the Noble Committee. “Kang has a unique awareness of the connections between body and soul, the living and dead, and in a poetic and experimental style has become an innovator in contemporary prose”, the Chair added. Devoted to music and art, her works cross ‘boundaries by exploring a broad span of genres- violence, grief and patriarchy’, describes the Prize Board.

Captivated with her thought provoking novel, *The Vegetarian* combines beauty with horror, brutal and disturbing, with scenes of physical and sexual violence, force-feeding and a foreboding sense of death. It traces a woman’s mental illness and neglect from her family. Garnered significant attention and won the International Booker Prize in 2016, *The Vegetarian* placed 49th in The New York Times’ “100 Best Books of the 21st century” in July 2024. Written between 2003 and 2005, published in Korea in 2007, now available in more than thirty languages, including Nepali, translated into

English in 2015 by Deborah Smith, a British translator of Korean fiction, *The Vegetarian* delves into themes of identity, societal norms, and the consequences of personal choices. Based on her 1997 short story ‘The Fruit of my Women’, developed into a full-length novel, or story in three parts, it is set in modern-day Seoul and follows Yeong-hye, a seemingly ordinary woman, lives an unremarkable life, who decides to stop eating meat after experiencing a disturbing nightmare filled with images of human cruelty, something very unusual in Korean culture.

“Before my wife became a vegetarian, she was a completely normal person in every way”, begins with a husband saying. The protagonist, Yeong-hye, initially a dutiful and compliant wife, it’s tormented by recurring nightmares that lead her to renounce meat entirely. This seems irrational to those around her and stuns her husband, who responds with cruel attempts to coerce her back. Her authoritarian father also intervenes, trying to force her to abandon her newfound resolve, which triggers a profound transformation in her life, leading to devastating consequences for self and those around her. The narrative unfolds through the perspectives of three different characters: unhappily married woman Yeong-hye; Mr. Chan, her husband; and Kim Yeo-jin, her sister; each providing unique insights into her psychological state and the impact of her choices on their lives. A powerful exploration of identity, rebellion, and the search for meaning, the protagonist Yeong-hye, a radical and strong character, who determines to become a plant in order to save herself, though her efforts bring her closer to death. She struggles to hold onto her own identity in the face of strong opposition from her friend and family.

Her family disagrees with her decision to

become vegetarian and try to impose her to be a non-vegetarian, to eat meat and used violence against her. Yeong-hye stops wearing a bra, avoids sex, repudiates meat-eating and withdraws from all familial ties. Her actions are incomprehensible to those around her. Her unloving husband grows exasperated, and her family, remonstrating Yeong-hye for her 'sheer obstinacy' stage a formal intervention. But when she refuses to give up her nascent vegetarianism, her father restrains her and force-feeds lumps of pork into her mouth. Shocked Yeong-hye drives a knife into her arm: 'Blood ribboned out her wrist'. She survives. By the end she is eventually hospitalized and confined within a psychiatric hospital, where she receives occasional visits from her sister. Here, Han momentarily unsettles the novel's previously established realism, as Yeong-hye rejects the ward's food in favour of photosynthetic nourishment, whispering to her sister that 'I'm not an animal anymore. I don't need to eat, not now. I can live without it. All I need is sunlight'. It thoroughly interrogates what constitutes suffering which becomes a psychological, physical and spiritual effect of dietary resistance to male-dominated Korean culture.

Yeong-hye ends the novel in an ambulance, moaning in apparent pain, as her sister watches over her. Noted for its lyrical prose and intense imagery, exploring the boundaries of the human experience and the struggle for autonomy in a conformist society, it raises disturbing questions about the nature of existence, the body, and the societal pressures that dictate personal choices. Pressure mounts, and her resistance culminates in a desperate act of defiance: attempted suicide. *The Vegetarian* then shifts to the perspective of her brother-in-law (her sister's husband) captivated by Yeong-hye's transformation. She becomes the muse for his increasingly erotic and tumultuous artistic visions and unsettling fantasies. Finally, narrated by Yeong-hye's sister, who reflects on the disintegration of their family

and her own failed marriage, grappling with feelings of guilt and responsibility for Yeong-hye's unraveling. Throughout, Yeong-hye's urge to break free from the confines of her physical self is poignantly revealed as she yearns to transcend her human form and become a tree.

It is both a sensual and provocative exploration of the human condition, making it a powerful and thought-provoking read. *The Vegetarian*, overall, not just a story about dietary choices, rather a profound commentary on the complexities of life, identity, and the often-painful journey toward self-discovery. It coincides with a sudden upsurge in people turning to vegetarianism and veganism, not a manifesto for vegetarianism. The novel does contemplate the impact of becoming vegetarian when everyone around one eats meat. It portrays the violent consequences that ensue when Yeong-hye refuses to submit to the norms of food intake. Her decision not to eat meat is met with various, entirely different reactions. She struggles to maintain bodily agency in response to her husband's disgust at her decision, her brother-in-law, a video artist who becomes obsessed with her passive body, and his erotic fascination with it and her authoritarian father's violent acts. Ultimately, Yeong-hye is committed to a psychiatric clinic, where her sister attempts to rescue her and bring her back to a 'normal' life.

However, she sinks ever deeper into a psychosis-like condition expressed through the 'flaming trees', a symbol for a plant kingdom that is as enticing as it is dangerous. Described as an anti-capitalist and eco-feminist revolt, *The Vegetarian* has earned praise for its innovative storytelling and powerful themes. "Since when I was a child, it was very overwhelming to look at human beings. All the things human beings have committed throughout history and throughout the world, and at the same time you can see all those dignified human beings all around the world. So it was like an impossible riddle for me. And the fact I belong to this human

race, and when we are confronted by the horror of humanity, we have to question ourselves what the meaning that we are human is”, Kan Kang said in an interview. “It was around that time I developed the idea for a short story about a woman who becomes a plant, which she eventually developed into *The Vegetarian*”, she added. Described as stark a haunting reflective the dark and introspective tone, it’s an exploration of the human psyche and societal constraints. Max Porter, who edited Smith’s translation, said, “Han is a vital voice and a writer of extraordinary humanity. Her work is a gift to us all. I’m beyond thrilled she has been recognized by the Nobel committee. New readers will discover, and be changed by, her miraculous work.”

The South-Korean erotic body horror drama made into a film, retaining the original title, in 2009, directed by Lim Woo-Seong, debuted at the 14th Busan International Film Festival on 8th October 2009, released on 18th February 2010; it was invited to the World Cinema Narrative Competition at Sundance Film Festival 2010. As well, one of only 14 selections (out of 1,022 submissions) included in the World Narrative Competition of the North American Film Fest. Han, apart from Noble and International Booker, has been conferred with numerous coveted awards: Korean Novel Award for *Baby Buddha* (1999); Today’s Young Artist Award-Literature Section, Culture Ministry, Korea (2000); Yi Sang Literary award for Mongolian Mark (2005); Dongri Literary Award for *The Wind is Blowing* (2010); Manhae Literary Award and Malaparte Prize for *Human Acts* in 2014 and 2017; Hwang Sun-won Literary Award for *While One Snowflake Melts* (2015); International Booker Prize for *The Vegetarian* (2016); Kim Yu-jeong Literary Award for *Farewell* (2018); San Clemente Literary Prize for *The Vegetarian* (2019); Prix Médicis étranger and Émile Guimet Prize for *Asian Literature for We Do Not Part* (2023);

Ho-Am Prize in the Arts; and Pony Chung Innovation Award (2024).

The local specificity of Kang’s writing, bringing Korean history and places to a global audience, and the precision of her prose, means that her work is innovative and arresting in both form and content. Named after the Han River, Han Kang was born on 27 November 1970 in Gwangju, a city in the south-west of South Korea, in a family devoted to writing, art and music: Han Seung-won, her father, a famed novelist; Han Dong-rim, her elder brother, also a novelist; and Han Kang-in, her younger brother, a cartoonist. As her family struggled financially and moved frequently, Han moved at the age of ten with her family to the Suyu-ri in Seoul, just months before the Gwangju uprising, when government troops fired on crowds of pro-democracy protesters, killing hundreds. She first learned about the massacre at the age of twelve, after discovering at home a secretly circulated memorial album of photographs taken by a German journalist, which deeply influenced her view on humanity and her literary works. Han later described her childhood as “too much for a little child”. Being surrounded by books gave her comfort. Completed schooling from Poongmoon Girls’ High School in 1988, she graduated from Yonsei University in 1993, majored in Korean language and literature.

Briefly worked as a reporter for the monthly *Saemteo* magazine, Han began her career as a novelist by winning the Seoul Shinmun Spring Literary Contest with a story ‘Red Anchor’ in 1994. Worked as a Professor, Department of Creative Writing, Seoul Institute of the Arts until 2018, now dedicating entirely to writing, she runs a bookstore in Seoul with her son. Married to Hong Yong-hee, a literary critic and professor, Kyung Hee Cyber University, Han has been divorced for many years. In 1998 she participated in the University of Iowa International Writing

Program for three months, supported by Arts Council Korea. In her college years, Han became obsessed with a line of poetry of Yi Sang, the Korean modernist poet: “I believe that humans should be plants”. Han understood Yi’s line to imply a defensive stance against the violence of Korea’s colonial history under Japanese occupation. Taking it as an inspiration, Han later wrote *The Vegetarian*. She quit her magazine job to solely focus on writing, and published her first short story collection, *A Love of Yeosu* (1995), under the name Han Kang-hyun. The anthology saw her revisiting her youth, evoking the enchanting coastal town of Yeosu through reflections on love, melancholy, the inherent sadness of life, and a tragic vision of the world.

In an interview in 2020 with the Louisiana Museum of Modern Art, Han described the presence of books in her childhood: “Books were like a creature that expanded around me day after day, week after week, month after month”. Her first series of five poems featured in the winter issue of the Korean quarterly ‘Munhak-gwa-sahoe’ (Literature and Society) in 1993. Alongside her writing, she has also devoted herself to art and music, which is reflected throughout her entire literary production. Her debut novel *Black Deer* (1998), published in both Korean and Chinese, is one of the most significant literary achievements of the 1990s. A mystery about a missing woman, set in the village of Yunichul, it draws upon the ancient Chinese myth of the mystical black deer that dwells deep underground, yearning to rise to the earth’s surface and feel the sun’s warmth, only to melt when touched by sunlight. The seamless narrative structure and evocative symbolism captures the essence of its era. Its precise details, unbroken narrative flow, powerful imagery and existential depth resonated with readers, too. Han Kang released her second novel *Your Cold Hands* (2002), which bears obvious traces of her interest in art.

The volume reproduces a manuscript left behind by a missing sculptor who is obsessed with making plaster casts of female bodies. There is a preoccupation with the human anatomy and the play between persona and experience, where a conflict arises in the work of the sculptor between what the body reveals and what it conceals. ‘Life is a sheet arching over an abyss, and we live above it like masked acrobats’ as a sentence towards the end of the book tellingly asserts. It’s a profound exploration of life’s hardships, examining pain, obsession, and the complexities of the human soul. As a transformative work, *Your Cold Hands*, Han claims: “changed my eyes and ears, changed the way I love, and quietly and silently led my soul to a pristine place I had never set foot in before”. Han published *A Song to Sing Calmly* (2007), accompanied by a music album. At first she did not intend to sing, but with the insistence of Han Jeong-rim, a musician and music director, Han recorded the songs. Han tells the haunting memories of the May 1980 Gwangju massacre and its brutal suppression in *Human Acts*, released in January 2016 by Portobello Books.

It intertwines the fates of the living and the dead, illustrating how trauma perpetuates across generations, serving as a counterforce to the ruthless pursuit of power through its nuanced narrative. “It remembers the holocaust by narrating how sufferings from the historical event came to be written into the everyday life and the bodies of the victims, witnesses and survivors, exploring this from the perspective of six people directly and indirectly impacted by this massacre,” said Hannah Hyun Kyong Chang, Lecturer in Korean Studies, University of Sheffield. Here Han employs a historical event as her political foundation where she grew up and hundreds of students and unarmed civilians were murdered during a massacre carried out by the South Korean military. In giving voice to the victims, *Human Acts*

confronts this episode with brutal actualization and, in so doing, approaches the genre of witness literature. Han's style, as visionary as it is succinct, nevertheless deviates from our expectations of that genre, and it is a particular expedient of hers to permit the souls of the dead to be separated from their bodies, thus allowing them to witness their own annihilation.

Han bestowed with the Premio Malaparte for the Italian translation of *Human Acts*, *Atti Umani*, by Adelphi Edizioni, in Italy on 1 October 2017. The English translation of the novel was shortlisted for the 2018 International Dublin Literary Award. However, *The White Book*, her autobiographical novel, shortlisted for the 2018 International Booker Prize for poetic style, centers on the loss of her older sister, a baby who died two hours after her birth. In a sequence of short notes, all concerning white objects, it is through this colour of grief the volume, as a whole, associatively constructed, takes readers to Warsaw, a city with a violent history and layers of trauma. A reflective and poetic journey is then undertaken by exploring all the white elements around her, from doors and snow to fabrics, clothes, salt, the moon, even a mother's breast milk. Woven together, *The White Book* is a meditation on grief, memory, and the resilience of the human spirit through sixty-five lyrical vignettes, a mesmerizing tapestry of associations. The story of a writer researching the 1948–49 Jeju uprising where tens of thousands of people, among them children and the elderly, were shot on suspicion of being collaborators, and its impact on her friend's family is well depicted in her novel *We Do Not Part* (2021).

In terms of its imagery of pain, closely connected to *The White Book*, its French translation won the Prix Médicis Étranger in 2023, and English version, translated by E Yaewon and Paige Aniyah Morris, is to be published in English in January 2025 by Hogarth

in the United States. It portrays the shared mourning process undertaken by the narrator and her friend Inseon, who both, long after the event, bear the trauma associated with the disaster that has befallen their relatives. With imagery that is as precise as it is condensed, Han Kang not only conveys the power of the past over the present, but also, equally powerfully, traces the friends' unyielding attempts to bring to light what has fallen into collective oblivion and transform their trauma into a joint art project, which lends the book its title. Han's full-length novel, *Greek Lessons* (2011), translated into English by Deborah Smith and E Yaewon, explores the delicacy of love, the depth of human connection, and the nature of intimacy. *It* depicts an extraordinary relationship between two vulnerable individuals: a young woman in Seoul who, following a string of traumatic experiences has lost the power of speech connects with her teacher in Ancient Greek, who is himself losing his sight. From their respective flaws, a brittle love affair develops. It is a beautiful meditation around loss, intimacy and the ultimate conditions of language.

The Wind Blows, Go (2010), which took her more than four years, is a large and complex novel about friendship and artistry, in grief and a longing for transformation are strongly present. She explores the enigmatic death of a gifted painter sustained by a ventilator while lingering on the precipice of life. It deals with the origin of life, the complexities of understanding and loving others, our darker desires, the reconstruction of memories, and the will to survive. Han explores once again the memory, history, love, friendship, and pain in *I Don't Say Goodbye* which begins with Insoon lying in a hospital bed after she severed two fingers with a wood chipper. She asks her friend Jeongha, not seen for over a year, to travel to her remote island home to care for her bird, who was left behind in the rush to hospital. Jeongha then braves a fierce storm to reach Insoon's house.

She uncovers a hidden trove of documents and papers bearing witness to one of Korea's darkest chapters- the Jeju Uprising of 1948-1949, during which more than 30,000 civilians were brutally killed under accusations of communism. The novel poignantly intertwines personal suffering with the collective grief of a nation, exploring how the echoes of past violence reverberate through individual lives and memories.

Han's groundbreaking work has reshaped the literary landscape in South Korea, said Paige Aniyah Morris, co-translator of Han's novel, *We Do Not Part*. "Han's work has inspired a generation of Korean writers to be more truthful and more daring in their subject matter. Time and time again, she has braved a culture of censorship and saving face, and she has come out of these attempts at silencing her with stronger, more unflinching work each time", Morris said. She also recalled seeing images of people who lined up to donate their blood to those who were injured in the uprising. "It was like two unsolvable riddles imprinted on my mind: How can humans be so violent, and how can humans be so sublime?" she said. "When I write novels, I find myself always returning to the theme of what it means to be human." Han's short story collection, *The Fruit of My Woman* (2000), which features eight poetic tales, describes themes of love, loss, and transformation. The title story tells of a woman who once dreamt of venturing to the farthest reaches of the world but ultimately resigns to marriage, seeking stability and accepting love as her ultimate form of happiness. When life with her husband becomes unbearable and escape seems impossible, she undergoes a surreal transformation into a plant, gazing upward from her balcony, yearning to touch the ceiling. This vividly encapsulates the tension between aspiration and confinement, longing and resignation.

What Do Dogs Feel When the Sun Goes

Down follows a young boy and his unemployed father searching for the boy's runaway mother. Their journey culminates in a heart-wrenching moment of profound despair and hopelessness, where the boy watches his father try to feed him poisoned bread. Han delves into Buddhist philosophies, exploring existential themes through a spiritual lens *In the Red Flower*. The stories vary in their scope and intensity. One tells of a delivery man who falls in love with a woman on his route; while another tells of the impossibility of love between a couple scarred both physically and emotionally. In another collection, *The Fire Salamander* (2012), Han presents seven stories crafted over seven months and later published over twelve years, before being assembled into this volume. Here, she examines the origins of existence, the nature of pain, and its profound effects on the human psyche. Han's characters come with a layer of existential armour around their souls that allows them to confront life's harsh realities. Likewise, her stories invite readers to reflect on the fundamental struggles of the human condition through her signature blend of poetic insight and raw, evocative storytelling. *Convalescence* (2013) involves a leg ulcer that refuses to heal and a painful relationship between the main character and her dead sister. No true convalescence ever actually takes place, and the pain emerges as a fundamental existential experience that cannot be reduced to any passing torment. Here, the deviant act occurs suddenly and explosively in the form of a blank refusal, with the protagonist remaining silent.

The same can be said of the short story *Europa* (2019), in which the male narrator, himself masked as a woman, is drawn to an enigmatic woman who has broken away from an impossible marriage. The narrative self remains silent when asked by his beloved: 'If you were able to live as you desire, what would you do with your life?'

There is no room here for either fulfillment or

atonement. Han, in her oeuvre, confronts historical traumas and invisible set of rules, and exposes the fragility of human life. She has inspired a generation of Korean writers to be more daring and truthful. As well, has a unique awareness of the connections between body and soul, the living and the dead, and in her poetic and experimental style has become an innovator in contemporary prose. Each of her works reflects remarkable insight into the inner lives of women. “Her writings are relentlessly political- whether it’s the politics of the body, of gender, of people fighting against the state- but

it never lets go of the literary imagination. It’s never sanctimonious; it’s very playful, funny and surreal, said Ankhi Mukherjee, Professor of Literature, the University of Oxford. Han, as a finest fictionist, has been an ardent activist and, indeed, a fearless champion of free speech. We shall eagerly await Han’s new starts and reinventing herself in fascinating ways in book after book in future.

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The Humanist Frame...

Contd. from page - (30)

Conclusion

Thus we are now, for the first time, beginning to acquire a comprehensive view of mind. We see it inherent in the evolutionary process, growing from elementary beginnings to a subordinate, and finally the dominant factor in evolutionary advance. Furthermore, while the brain is an object extended in space we are all familiar with mental activities, for example thoughts and feelings, which are not thus extended.

Moreover, man is not merely intelligent and self-conscious: he has been since prehistoric times an artist. In the vast range and variety of the arts he uses creative imagery to express his insights and enjoyments.

Man has always created images also of the universe as a whole—images to satisfy his need not only to comprehend it intellectually, but to respond to it emotionally. Humanism can contribute the vision of life as one, and an understanding of man’s nature both as body and mind in the light of the development of the race and the individual, and of all that science can teach. 🌈

Right To Get Legal Aid Is...

Contd. from page - (34)

In sum, we thus see that the Apex Court has made it indubitably clear that in cases with a possibility of a life sentence or death sentence, only advocates having a minimum of 10 years of practice on the criminal side should be considered to be appointed as amicus curiae/legal aid advocate. It was also made absolutely clear by the top court stating that, “Even in the cases not covered by the categories mentioned above, the accused is entitled to a legal aid advocate who has good knowledge of the law and has an experience of conducting trials on the criminal side. It would be ideal if the Legal Services Authorities at all levels give proper training to the newly appointed legal aid advocates not only by conducting lectures but also by allowing the newly appointed legal aid advocates to work with senior members of the Bar in a requisite number of trials.” No denying it!

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The following two poems by Raju Z. Moray relate to the recent elections in Maharashtra:

A slum dweller's grouse

He did nothing for five years
I know he is a notorious fixer
But on the eve of this election
He gave us a cooker and a mixer
Repaired our huts, paved our lanes
Gave us tall promises on a platter
Paid us well for shouting slogans
What they meant does not matter
This year for us has been the best
I am brother-in-law of Chief Minister
He put money in my wife's account
And said she's now his "Dear Sister"!
After last day of campaigning
I went and joined every big bash
No slogans, no rallies, no placards
Just good booze and hard cash
I love it when elections happen
The only festival we all hold dear
My only grouse is such a long gap
Why can't they do this every year?

(Published on: 23 Nov 2024)

Raju Z Moray practices law in Mumbai. For more than 30 years he has been a contributor of articles and poems to publications of the Lawyers Collective. An anthology of his

humorous writing for 'The Lawyers' magazine was published in 2017 as 'Court Jester' and the series of 60 poems he penned during the 2020 Lockdown for 'The Leaflet' has been published in December 2020 as 'The Locked Down Lawyer'. His new book 'Tales of Law & Laughter' is out now.



Enough is enough

It's voting time once again
All the hopefuls shall appear
We know for next five years
They'll conveniently disappear
We still believe that we matter
In ugliness search for beauty
As so-called "model citizens"
We vote to perform our duty
After the sloganeering dies
The worst one usually wins
We just blame it on karma
Recompense for untold sins
Can there not be a change
If we are sure we all want it?
Would require concerted effort
But no need to go and flaunt it
Candidates shouting the most
Making old promises in new din
Election time's the opportunity
To consign them to History's bin
Observe cutouts and posters
Defacing neighbourhood space
Decide that enough is enough,
"I shall not vote for this face!"
Follow neither leader nor herd
Loudest voice nor biggest name
If you still press the wrong button
You've got only yourself to blame.

(Published on: 19 Nov 2024)



Maharashtra Today



Pakistani General signing the Instrument of Surrender by Pakistani forces before the Indian General on 16th December 1971 at Dhaka, the capital of Bangla Desh, then East Pakistan, which resulted in the bifurcation of Pakistan and formation of Bangla Desh

(Photo now removed from the Indian Army's headquarters by the Modi government)

