



THE TIMES OF INDIA

A Thought for Today

There are many scapegoats for our sins, but the most popular is providence. — MARK TWAIN.

Last Chance In Ayodhya

Armed with the clear and resounding mandate he has received from the National Integration Council, the Prime Minister can now redouble his efforts to resolve the Ayodhya dispute within the framework of the principles and provisions set out in the Constitution. His endeavour in this regard has so far been exemplary. Though he has felt let down again and again by the BJP-RSS-VHP combine, he has not given up the hope that those involved in the dispute will resume negotiations even at this tardy hour. The patience he has demonstrated has been variously denounced as a sign of weakness, indecisiveness and worse. But it has served to drive home the point that, given the sensitive nature of the dispute, patience is, if anything, a synonym for political maturity. Mr Narasimha Rao naturally has good reasons to be pleased with the fact that the country's secular forces — which command a formidable numerical strength in Parliament and can thus legitimately claim to speak on behalf of an overwhelming majority of our people — have rallied firmly behind him. All the same, it would be wrong and indeed even dangerous if the mandate of the NIC is interpreted as a free hand given to Mr Rao to stage a confrontation against the *Hindutva* combine. It is nothing of the sort. The Prime Minister is surely aware that, in the absence of an endorsement from the combine (it unfortunately chose to boycott the meeting), the NIC resolution can go this far but no further.

It is sound insofar as it reiterates the first principles governing the conduct of politics in India. But such reiteration is of little avail when Mr Rao is face-to-face with his party's past record and with present realities on the ground. Thus, the BJP-VHP-RSS combine can ask, altogether pertinently, why the Congress did not think it fit to respect the supreme court on other matters such as the Shah Bano case and the Cauvery dispute. It is well within its rights too when it argues that cases related to Ayodhya pending before the Lucknow bench of the Allahabad high court have dragged on and on though the tearing haste of the BJP tells its own story. Finally, Mr L. K. Advani has gone on record to state that, provided the *kar seva* is allowed, the disputed structure will be safe and its future could be settled through further negotiations or by any other means. In plain words, Mr Rao and the combine have to find some way to make it possible for the *kar seva* to take place legally, i.e., firmly outside the areas under litigation. As a *quid pro quo* the combine would have to agree to refer the fate of the disputed structure to the supreme court and to accept its verdict and not insist on the superiority of faith over law. Until these avenues are thoroughly explored, any talk of a confrontation, including the dismissal of the Kalyan Singh government, will prove to be calamitous. Fortunately, most interventions at the NIC meeting were singularly free of BJP-baiting. This, too, is a happy augury.

Dakar To Geneva

The declaration adopted at the third summit of the group of 15 developing countries at Dakar suggests that this body has finally begun to display some sense of direction. Although formed to articulate the interests of the South, one reason why the group appeared for a while to be tentative and hesitant is that the global context had changed dramatically since its first summit in 1989. The sudden collapse of the socialist bloc and the unchallenged sway of the capitalist West greatly eroded the bargaining position of the developing world. This happened at a time when much of the developing South was reeling under the burden of indebtedness, the slowdown of the world economy and a rise in protectionism. Not surprisingly, the second summit in Caracas in 1991, with its significance diminished by the absence of five members, adopted a fairly moderate approach towards the North. Though it would be wrong to call its tone confrontationalist, the declaration at Dakar is, in contrast, forthright in addressing some key concerns. Thus, while pleading that development should dominate any global agenda, the G-15 rightly criticises the North for deflecting the focus from this issue by linking it with security concerns. The fact that India, unlike last time, played a more active role at the summit is evident from the clause which exhorts the advanced nations not to hinder the transfer of dual-use military technologies needed by the South for peaceful purposes. The U.S., it needs to be recalled, has banned the sale of space technologies to India. It is significant that Brazil and Indonesia joined hands with India at Dakar to protest against attempts to force multilateral regulations on transfer of sophisticated technology.

This closing of ranks augurs well for the South as it must prepare to drive a hard bargain in the Uruguay round of GATT talks to be resumed soon. Now that the U.S. and EEC have sorted out their dispute on farm subsidies, the developing countries face a tough prospect as the G-7 will present a formidable united front. In the past the developing countries lost out because of complete disarray in their ranks. Even Brazil and India could not pull together, notwithstanding the formation of G-15 in 1989. The success of G-15, therefore, will have to be judged by its ability to unite the South at Geneva. Unless it does that, its efforts to persuade the G-7 to resolve the inequities of the global economic system, in general, or the problem of third world debt, in particular, will fail. It also follows that South-South cooperation will continue to remain a pipe-dream.

Superman-agentment

The heroine of a noted Bengali story had to die to prove that she had been alive; now Superman has been killed off to revive interest in the celebrated comic. In an event subjected to as much analytical scrutiny as the presidential cat or even the Madonna book, the kryptonite hero with the identity crisis is finished off by a monster named — surprise, surprise — Doomsday, following a superhyphed epic battle that made Kurukshetra seem like a routine slum brawl. The real 'serial' killer is, however, perceived to be detective comics (DC), the holder of the brand-name and thereby of the power of life and death. The end was properly funeral, with issue number 75 sliding off the presses in a coffin-like encasing engraved with the epitaph, "Here lies the world's greatest hero," and complete with black armband. In the USA, death is big business, as several novelists have parodied, and Superman predictably breathed his last to the rising crescendos of the till, ringing in three million copies, compared to the gasping 200,000 of the lingering terminal stages. Even at the height of Superman's post-World War II popularity, sales had not exceeded one million. Having made a financial killing on the death, DC can now get down to bringing Superman back to life, and *The New York Times* actually asked "a cross-section of imaginative types" to construct a resurrection scenario. Credibility is at a discount when suspension of disbelief is the USP, whether one is dealing with comic-book heroes who can take on a battalion of enemies single-handedly or their soap-opera clones hellbent on achieving the same feat *vis-a-vis* the blonde brigade. The two roles acquire combinant synergy in Dr Camille Paglia's erudite dissertation, *Sex, Art and American Culture*, where she describes Superman as a "very phallic, glossy, gleamingly hard-edged, hypermasculine figure." Too bad, today's Superman isn't overly interested in that kind of thing.

Mandal Judgment  
Triumph Of Social Justice

By SOLI J. SORABJEE

THE supreme court, by its judgment (six to three) in what is popularly known as the Mandal case, has enunciated far-reaching principles about the scope of Article 16 (4) of our constitution. This provision permits reservation of posts in favour of any backward class of citizens which, in the opinion of the state, is not adequately represented in the services under the state.

Reservation of posts is one of the many measures necessary to offset the cumulative consequences of caste discrimination which has been practised for centuries. One consequence of this pernicious system is the monopolisation of state power by the upper castes. The purpose of reservation is to redress this historic imbalance. It is a remedial measure, not a punitive one directed against the higher castes.

According to the majority judgment of the supreme court, delivered by Mr Justice B. P. Jeevan Reddy, the objective underlying Article 16 (4) is the empowerment of the deprived backward communities — to give them a share in the administrative apparatus in the governance of the community. It is not aimed at economic upliftment or alleviation of poverty but, in the words of Dr Ambedkar, is a provision made for the entry of certain communities who have so far been outside the administration and hence the need for their adequate representation in state service. Adequacy is to be judged not by their presence in the lower rung of services but their entry into the higher echelons, the corridors of power. As rightly pointed out by Mr Justice Sawant in his concurring judgment, Art. 16 (4) mandates effective representation and, where a majority of the population is denied its share in actual power, there exists no real democracy.

Total Strength

What can be the extent of such reservation? Not in excess of 50 per cent except in extraordinary situations. Furthermore, the rule of 50 per cent should be applied each year and cannot be related to the total strength of the class, category, service or cadre as the case may be. Moreover, there should be no reservations in the matter of promotions.

Does not the reservation principle sacrifice merit and impair efficiency in administration as was vehemently argued? The majority rejected that argument. Yet it held that on account of the nature of duties attaching to certain posts and positions where merit alone counts it may not be advisable to provide for reservations

in technical posts in research organisations, in specialities and super-specialities in medicine and posts of professors, pilots in Indian Airlines and Air-India, scientists and technicians in nuclear and space application. On this aspect the majority judgment appears inconsistent and carries less conviction than the passionate dissent of Mr Justice Thommen supporting the 'Anti-meritocratic' theory.

What does the expression, 'backward class of citizens', signify in the absence of any definition in the constitution and how should it be identified? This has been one of the most vexed questions which has confronted the court. No clear-cut answer has been provided. According to the majority the emphasis in Art. 16 (4) is on social, not economic backwardness and, therefore, notwithstanding the fact that social, educational and economic backwardness are closely intertwined in the Indian context. Economic criterion cannot be the sole criterion for identifying backwardness.

Can caste be a factor in determining backwardness? According to the majority, if the real object is to locate backwardness, and if such backwardness is found in a caste, it can be treated as backward. If backwardness is found in any other group, section or class, they too can be treated as backward. A caste can be, and quite often is, a social class. If it is backward socially, it would be a backward class for the purposes of Article 16 (4).

Crucial Part

The crucial part of the majority judgment is its recognition that, if members of a designated backward class are highly advanced socially, this creamy layer must be excluded from the benefits of reservation because otherwise the disadvantaged and deserving members of that backward class would be deprived of these benefits. However the basis of exclusion should not merely be economic, unless the economic advancement is so high that it necessarily signifies social advancement.

The majority did not approve of the means test or an income ceiling because of its relativeness and varying applications in different parts of the country. Besides, a mere rise in income is not necessarily a rise in social status unless the income is such as to indicate social advancement. These are questions of fact and matters for inquiry. But there are certain posts whose occupants can be treated as socially advanced without any further inquiry, for example, a post in the IAS or the IPS or any other all-India service. In such situations the

member of the designated backward class rises and is no longer socially disadvantaged. His children get full opportunity to realise their potential and are in no way handicapped in the race of life. His salary is such that he is above want. It is but fair and logical that in such a situation his children are not given the benefit of reservation.

Applying the principles laid down by the majority, the court ruled that the order dated August 13, 1990, issued by Mr V.P. Singh's government was valid and enforceable subject to the exclusion of the socially advanced members/sections from the notified other backward classes. For this purpose the government of India was directed to specify within four months the bases, applying the relevant and requisite socio-economic criteria for exclusion of the creamy layer.

Sole Criterion

The court struck down that part of the order dated September 25, 1991, issued by the Narasimha Rao government which provided for reservation of ten per cent of the vacancies for other economically backward sections because it is unconstitutional to make economic criterion the sole one.

The Mandal Commission report was fiercely debated before the court. The majority judgment approves the criteria adopted by the Mandal Commission, but ultimately it did not think it necessary to opine on the correctness and adequacy of the exercise done by it in view of the court's conclusions and directions to the government to constitute a permanent body for entertaining requests for inclusion and complaints of inclusion and under-inclusion in the lists of other backward classes of citizens. To many this was verily a damp squib, an attempt to skirt the thorny issue. Some view it as an ingenious method of replacing the Mandal report by another one in contrast to those who consider the majority's reticence an act of judicial statesmanship.

The judgment cannot satisfy all. It is not and cannot be a panacea for the evils of caste and class discrimination. For that the real remedy must lie in the sensitive hearts and enlightened minds of our people. Nonetheless, this historic judgment is a balanced one and marks a significant step in fulfilling Gandhiji's dream of India in which there shall be no high class and no low class of people. As a declaration of law by the apex court it must be respected and observed by all who value a society governed by the rule of law.

LETTERS

Stifling Growth

Sir, — The World Bank president, Mr Lewis Preston's "prophetic" visit to India before the budget preparations, clearly indicates WB's stranglehold over Indian economy and speaks volumes for Dr. Manmohan Singh's desperation.

Inaugurating the International Asia Pacific Conference he vociferously echoed the sentiments of Mr Preston when he said that customs tariffs should be trimmed to international levels.

Undoubtedly lowering of customs tariffs to 25 per cent from the present 110 per cent will give foreign exporters a chance of a lifetime to take a firmer grip of the Indian market by adding 50 per cent margin on profit and yet scale down their basic rate by 35 per cent of today's level.

With the present tariff of 110 per cent, Indian manufacturers fail to match their rates with those of imported goods. There are widespread fears of recession in the Indian market and consequent loss of jobs. Liberalisation is indeed good for the industrial health of the country. It does help industries to wake up from the complacency and fight for better quality and sharpen competitive spirit. But to maintain the same excise tariff rates on essential inputs will only stifle growth and bring down the shutters of small and medium-scale industries.

ZUBIN K. GANDHI  
Bombay.

Fair Rent Bill

Sir, — The old Rent Act formulated in 1947 with the partition amendment made in February 1973 is unjust. Even in the old law a tenant was liable for eviction if the landlord needed the premises for bona fide occupation. So the provision in the model rent bill for summary eviction of the tenant when the premises are genuinely needed by the owner is no new feature.

All flat-owners have not bought the tenements for perpetually letting them out, but for their future use when their family expands. When the premises were let on a 'leave and licence' basis for a short period in cooperative housing societies on or before February 1, 1973, the licensees had entered into valid agreements and solemnly affirmed that they would hand over vacant and peaceful possession of the premises to the licensors on the expiry of the licence period. But the state government in 1973 made "licensees" as "deemed tenants" or "protected licensees". And the housing society and the tenant to whom the society had allotted the flat were forced to engage in tortuous litigation to recover the premises from these "licensees" who had been let into the premises only as short-term occupants.

To give even justice to landlords and tenants, the Maharashtra government should adopt in  *toto*  the model rent bill of the Union government. The tenants have been abusing the benefits under the old Rent Act and even short-term licensees of 1973 have been holding on to their premises for 20 years paying the same compensation as in 1973. The rent controllers and the rent tribunals provided in the new bill will drastically curtail the period of litigation and enable speedy disposal of cases. Exemplifying cooperative housing society premises from the purview of the Rent Act will enable the societies to recover their premises from non-members and regulate occupation of cooperative society buildings as per the society's by-laws.

N. HARIHARAN  
Bombay.

II  
Sir, — The prevailing Rent Act has bloated the ego of tenants so much so that even those who could have easily acquired other premises, continue sitting tight. There are cases where government officers eligible for government quarters and staying in private flats, when transferred outstation, leave their families behind to perpetuate tenancy rights; and employees eligible for liberal staff housing loans do not avail such facilities. Even today, tenants are fortunate to have advance notice of an impending legislation, but did the landlords get the same in 1973?

S. CHAKRAVARTY  
Bombay.

Pat On The Back

Sir, — The speed with which Mr Sudhakarrao Naik's government has swooped on MLAs to nab them under TADA is commendable. The recent happenings have left the government with no other alternative but to first put its own house in order by invoking TADA. The drive should be relentless so that Bombayites can live peacefully.

The result of the political patronage enjoyed by the underworld is there for everyone to see. The time has now come for the Congress high command to put on its thinking cap while selecting candidates for elections. This also applies to the selection procedure followed by all political parties.

The Maharashtra police have proved that they are second to none and given a free hand, they can perform their duties efficiently. They too deserve a pat on the back.

R. A. KANTAK  
Bombay.

Upside Down

Sir, — Please accept my hearty congratulations for publishing the most appropriate picture of Mr Jawaharlal Nehru on his birth anniversary (November 14). The photograph shows Mr Nehru doing the *shirshasana*. Mr Nehru who wanted the country to develop on the right track, would find it so today, only if he saw it standing on his head!

K. SUBRAMANIAN  
Pune.

Sri Lanka: Autumn  
Of The Matriarch

By MERVYN de SILVA

IN no other region of the world has dynastic rule become such a well-entrenched feature of national politics than south Asia. And this, despite the introduction of popular participatory processes and democratic values almost half a century ago. Widows and daughters have played a major role in shaping south Asian destinies.

Right now in Sri Lanka, Mrs Bandaranaike is the central figure in the crisis that threatens to tear apart the SLFP — her assassinated husband's party. Mrs Bandaranaike's age and, more recently her illness, have aggravated the party-cum-opposition crisis. It is not that she has repudiated the idea of family power but because she prefers her second daughter, Chandrika, as her successor.

Chandrika was admitted to the party only recently, whereas her brother, Anura, the youngest in the family, has not only been an MP for 15 years but had served as opposition leader in the 1977-82 Parliament. His debating skills, his mastery of parliamentary procedure and decorum won plaudits from none less than the former President, Mr J.R. Jayewardene.

On his return from Oxford, the young Solomon Bandaranaike, a barrister, plunged into pre-independence politics. The party he founded was named, interestingly enough, the Sinhala Maha Sabha, a direct appeal to the majority Sinhala community. But, before the formal transfer of power (1948), he had chosen to work with the father-figure of the Ceylonese national movement, Mr D. S. Senanayake, the leader most trusted by the British. Unlike in other colonies, the transfer was, in fact, a tea party transaction.

Unwritten Part

The unwritten part of the pact between Sri Lanka's first Prime Minister and Bandaranaike was that Solomon would be the old man's heir-apparent. This was clear when Bandaranaike was chosen leader of the house. He was, however, given the modest portfolio of local administration. That was the old man's mistake, Bandaranaike told this writer 35 years ago. He used the local bodies (village and urban councils) to widen his mass base and to do some talent-spotting, just in case, Senanayake let him down. In fact, it was soon obvious to Bandaranaike that Senanayake was grooming his son, Dudley, who was much younger than Solomon. He quit the UNP and founded his own Sri Lanka Freedom Party.

In many ways, S.W.R.D. Bandaranaike was Nehruvian in his outlook, certainly in his world view. He was an anti-colonial nationalist

who had strong views on the freedom struggles in the emerging third World and on the increasingly fierce and dangerous global, ideological conflict between rival power blocs. It was on domestic policy that he ran into serious trouble because he could not control the forces that he had unleashed.

As a young man, he was a socialist, fashionably Fabian rather than orthodox Marxist-Leninist. It is this mixed, perhaps confused, legacy of anti-colonial radicalism (he nationalised Colombo port and private bus transport) Sinhala-Buddhist revivalism, non-alignment, mixed economy, and parliamentary democracy, that the SLFP now seeks to package once more and offer a new consumer generation, a generation hooked on the IMF-World Bank-supported "free market" strategy that Mr Jayewardene adopted.

Not Paramount

Economic policy is not the paramount issue, though the Premadasa government's economic performance may well be the decisive factor in the 1994 polls. The more dramatic, attention-getting and emotional issue is the Tamil problem and the challenge of the separatist Tamil Tigers.

The cold-blooded, perfectly planned assassination of Vice-Admiral Clancy Fernando by a Tiger suicide bomber brought home more sharply than ever before a simple message: Colombo is no safe haven. The war must go on but only to convince the Tigers that they cannot impose a unilateral solution either.

The SLFP leadership and the opposition as a whole derive vicarious satisfaction from the President's acute discomfort. He cannot concede the minimum the LTTE may regard as acceptable. And he must carry on with the war regardless lest he should suffer major losses in the majority Sinhala constituency.

Mrs Bandaranaike's moment of glory was 1970 when she led the SLFP and its left allies to a sweeping parliamentary victory. She would like to see history repeated but that requires a grand alliance, particularly with her old left allies. But they demand at least a mixed economy, if not a total rejection, of the IMF-World Bank restructuring programme. Anura regards the left as a liability. Chandrika regards the left and minority (Tamil mainly) support as essential. With the mother's help, Dudley, who was much younger than Solomon, he seems to be gaining ground but the damage to party morale and public image is considerable. But Chandrika is the only one of her children who has a child. And so the SLFP, and indeed the island, learns to live with the prolonged autumn of the matriarch.

VIEWPOINT

Gold Imports

DUBAI is the entrepot centre for gold exports, legal and illegal, to the Indian sub-continent. So the reports currently emanating from there should not be taken lightly. While finance ministry sources in New Delhi have been gloating, week after week, how legal imports of gold have gone on increasing — by October-end the quantity thus imported had reached 65 tonnes, against the target of 35 tonnes for the whole financial year — the reports from Dubai point at the same time to an unabated flow to India of contraband gold. Most recently it has been reported from there that there has been an unprecedented spurt of gold imports into Dubai and whatever quantity of gold is being exported from there to India legally is over and above what India was normally importing through unofficial channels. A senior official of the Dubai-based World Gold Council is reported to have explained the sharp rise in Dubai's gold imports in recent months in terms of the expansion in the demand for gold due to easing of controls on gold imports by Pakistan and India. Much more pointedly, he is reported to have observed that whatever goes,

to India officially is surplus. Smuggling through parallel channels continues to go on.

This cannot but have a serious impact on the country's balance of payments, because it should have meant mobilising additional foreign exchange for the purpose. That there is virtually no let-up in the premium on foreign exchange in the havalas market could be taken to reflect the additional demand for gold, partially at least. Also, the fact that, in spite of the steep devaluation of the rupee, export earnings have achieved only a marginal increase whereas imports have expanded sharply could, to some extent if not altogether, be because of the even greater resort than in the past to under-invoicing of exports and over-invoicing of imports.

The total inflow of gold for the year, legal and illegal, might then add up to 300 tonnes which at the international price of \$ 350 per ounce should entail a staggering amount of \$ 3.4 billion in foreign exchange. So the whole purpose of the scheme, namely, to move towards a single exchange rate would stand defeated. — *Economic And Political Weekly*

FROM THE Times ARCHIVES

DECEMBER 13, 1944  
"FEMALE LAWRENCE"  
IN NAGA HILLS

IMPHAL, December 9: In rough terrain on a solitary hilltop in the Naga country, a hard two days' march from the nearest white habitation, lives a 30-year-old London woman who organised Naga tribesmen against the Japanese, established a network of observation posts through the North Cachar Hills and supplied the 14th Army with one of its most valuable intelligence sources.

The stranger-than-fiction story of this remarkable woman—some have called her a "female Lawrence"—has now been told by SEAC, the 14th Army troops' newspaper. Her name is Ursula V. Graham Bower. She is the daughter of Commander J.G. Bower, D.S.O., a submarine officer and pioneer aviator, and her brother is a captain in the marines. For six years she lived alone among the Nagas, studying them, taking photographs and collecting material for a book.

In 1942, when the Japanese came into Naga country, the tribesmen were reputed to be rather shy of British influence. Today, thanks to Miss Bower's firm organisation, they are 100 per cent loyal.

When the Japanese were reported to be within 25 miles of her hilltop headquarters, and she was advised to come out, she replied with the signal for 30 more rifles and the signal, "I am going forward to find out what is happening."

She threw out a screen of observation posts and made ready a system