

## REVIEW OF THE CONSTITUTION – A CAPSULE THOUGHT\*

**H**aving listened, for nearly one and half hours, to the stalwarts of

the legal profession and the great luminaries as are seated on the dais, there is hardly anything which I can usefully add to the lustre of this afternoon, dedicated to the memory of late Shri Jagdish Swarup. Called upon to make a Presidential Speech, I am reminded of what Mark Twain said once. According to him, a good Presidential Speech is one which has either a good opening or a good closing – preferably both. And the best Presidential Speech is one in which the opening and closing are very close to each other. I think I must follow his advice. And, at the same time, perform my Presidential duty, lest I should be deprived of the cup of tea which the Supreme Court Bar Association has promised me, only on the condition that I speak.

It is never late to learn. I have come across a new word which I would like to share with you. You all know about the autobiographies and biographies of great persons. There are persons who do not write their autobiographies. One such person was Setalvad who said, “I do not like talking about myself”. Then there are some who do not wish their biographies being recorded. However, there are some whose greatness lives in their thoughts, actions and deeds and when they are remembered, what comes to be written is ‘hagiography’ not just an autobiography or biography. Late Jagdish Swarup was one such person. The anecdotes recited by Dr. L.M. Singhvi, Shri Shanti Bhushan, Shri S.S. Ray, Ld. Attorney General and the moral and message flowing therefrom would go into making Late Jagdish Swarup’s hagiography.

I admire the organisers as well as the lecturer of the day, Mr. Fali S. Nariman, Senior Advocate for choosing the subject – “Constitution of India 1950 – Could It Ever Be Fashioned Again?” – a very timely topic. Our Constitution has not yet completed 60 years of its existence and it has witnessed as many as 92 amendments. In spite of Dr. Ambedkar’s statement about our Constitution that it was workable, flexible and strong enough to hold the country together, both in the times of peace and war, need was felt to appoint a Constitution Review Committee. It was as back as in 1974 when the great jurist, Nani A. Palkhiwala came out with a beautiful monograph – ‘Our Constitution: Defaced and Defiled’. He had said – We, the people of India adopted, enacted and gave to ourselves the Constitution and we are its own keepers. We have to pay the State not only in taxes but also in terms of time and thoughts. Each generation will have to defend the Constitution and fight for its existence. “You may not believe in fate which overtakes men however they act but you have to believe in fate which overtakes men unless they act”.

In 1998, late Justice B.L. Hansaria handed down to the legal fraternity, a thought-provoking monograph – “Does India Need a New Constitution?” Therein he has raised many a scathing questions, demanding answers. The year of publication was the golden jubilee year of our independence and he posed a burning question – whether our “tryst with destiny” has brought about desired changes in the destiny of all and whether Gandhiji’s vision of Swaraj “wiping out every tear from every eye” has been achieved. If not, why?

The memorial lecture delivered today, and the views expressed by the several learned speakers this afternoon, while paying tributes to the memory of late Shri Jagdish Swarup, have highlighted several issues seeking solutions.

Making a little diversion from the principal theme, I wish to avail this occasion as an opportunity to acknowledge the gratitude of the members of the Bar, generally for their contribution and creativity. The year 2005 has been declared by me as "The Year of Excellence in Judiciary" and at the same time "Young Lawyers' Year" by the Supreme Court Bar Association. I am very happy to note the intensity of common purpose which has gradually and silently developed between the members of the Bar and the judiciary. The Supreme Court Bar Association, under the leadership of Mr. P.H. Parekh, has commenced a series of lectures as per a calendar announced in advance and by this time, 12 lectures have been delivered. The last one was to be delivered on 22nd February, 2005 by Justice D.M. Dharmadhikari. On the same day, came to be fixed, under the auspices of Bar Association of India, a memorial lecture to be delivered by me in the memory of Motilal Setalvad. The Supreme Court Bar Association and Justice Dharmadhikari very kindly gave in to make room for me for which I am thankful to both of them. Justice Dharmadhikari would now be speaking sometime in the next week. I have received very good reports about the excellent lectures delivered and very enthusiastic participation by the members of the Bar and Bench. I request Mr. Parekh to make a compilation of all the lectures, so delivered, and publish them for the benefit of posterity.

We have solved many a problems of working to the mutual advantage of the Bar and the Bench and the working has been very smooth. More than 100 appointments of High Court judges have been cleared during last 8 months and I hope, by the end of this year, there will not be a single vacancy left unfilled in any of the High Courts. The efforts which I have been making, with the support of my sister and brother judges, have started showing the results. A very ambitious plan for introduction of IT-in-Judiciary is in pipeline. The Hon'ble Prime Minister is very keen on extending all possible help for strengthening the judicial system of the country. As the newspapers of today show, a grant of more than 2100 crores of rupees is likely to be made for this purpose. Last evening, I had a very important meeting with Mr. Sam Pitroda and National Informatic Centre followed by another meeting at 3 p.m. today with the Committee for E-governance in Judiciary and Administrative Reforms. Establishing interconnectivity between all the Courts – the Supreme Court at the top and down below upto taluka courts, and all the High Courts, is the aim.

All the difficulties, pointed out by the members of the Supreme Court Bar, which they encounter in the matter of filing and listing of cases, have been taken note of and are in the process of being removed. In all the efforts which are on move in a big way, I appeal to the Hon'ble Members of the Bar to continue to co-operate and I am confident that this year will be full of achievements.

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\* Presidential Address delivered on the occasion of First Late Shri Jagdish Swarup Memorial Lecture on 25th February, 2005, at Supreme Court Lawns.