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Editorial Perspective

The Police under Scrutiny

Some recent developments have once again put the Indian Police in lime-light over its functioning, performance and its infrastructural problems. Unfortunately, most of the recent attention have exposed the police in adverse light. Police is an important agency in guarding the rights of the citizens guaranteed by the constitution. Hence its performance is closely related to the very concept of citizenship in the country based on equality of all.

The cases raising questions on police conduct and professionalism include, the most recent rape-cum-murder case of a dalit girl in Hathras distt. (UP), controversy over investigation of suicide case of actor S.S. Rajput (SSR); death of father and son in police custody in Sathankulam distt of Tamilnadu; NCB (headed by a police officer) in drug related cases in Bollywood, Mumbai; investigation in February Delhi riot cases etc. These have not only led to intense media coverage and political-debate, but also reactions within the police community itself. Police leaders feel that the inadequacies arise mainly due to reluctance to implement the long pending Supreme Court mandated police reforms, serious shortage of manpower and infrastructure leading to personnel fatigue etc. It is true that there are nearly 25% vacancies at national level (The State of Policing in India Report 2019). In UP it is 46.9%. All this adversely affects the criminal justice system and maintenance of law & order.

But the current scrutiny of police goes beyond these infrastructural deficiencies, which do have a role in quality of policing. In any case the need for police reforms and better facilities are not new and long pending and debated. But incidents like Hathras and others posit new problems and issues going beyond these existing deficiencies. These have to do with the vital norms of police functions and responsibilities

and powers. These are rooted in its mandated legal role and responsibilities and attitudinal issues regarding it. Unless the police leadership steps back and defines its legitimate role and responsibilities, such controversies will continue to haunt it and seriously affect its credibility. It seems with polarized politics and social tensions the police is going to be severely tested on law and order front. Thus it must seriously introspect on its role and responsibilities in scheme of things as towards the citizen's rights guaranteed by the constitution and the laws.

The above observations will arouse angry debates. But the need is to keep it simple as it has mainly to do with the attitude and understanding of police responsibilities. Simply stated if one objectively examines the latest Hathras case all these pitfalls become apparent. None including the media, politicians and the police are above blame. From the beginning the case had an obvious volatile caste angle in a normal feudal rural set up. FIR to Medico – legal aspects are fudgy, with police being accused of neglect. Secondly, the midnight cremation of the victim by the police was unwarranted. Was it all mandated by law? After having received the body of the victim at Safdarjung Hospital Delhi alongwith the autopsy report, the police ought to have handed over the body to the kin at Delhi itself or at its residence in the village for cremation. Even if a law & order situation was apprehended over the body, it's the District Magistrate, Health deptt, Panchayat etc. should have taken charge of it under police protection if needed. It is not the police function to cremate identified dead bodies, which in the current case is at the heart of it, with meddlesome politicians fanning caste conflict; tensions and allegations. On top of these legal issues, senior police officer publicly asserting conspiracy theories does no good to their image, as also discussing medical reports on rape etc. publicly. The Hathras police should have stated its case clearly that initially the rape was not reported. Many new facts are coming out raising question on the incident itself. In Hathras case the politicians and media's role was also questionable. Police should be doing its job quietly and as per law and not become part of the public paranoia on legal and law & order matters.

It is this police attitude to do more than their share and look strong and decisive which puts it in trouble. Being correct is the need. The temptation to be part of the politico-social narrative should be curbed. Police leaders must know their limits and learn to say no. They should also avoid cooption in conspiracy theories etc. – and take action if

there is one and leave its publicity to govt.. In the SSR case a state DGP criticising police of another state and pontificating on right of a citizen vis-à-vis a chief Monitor does no good to police image and reeks of small time flattery. If the police of one state sends investigation team to another state it will lead to chaotic situations. Has anyone questioned the propriety of the Bihar Police sending its team to Mumbai for investigation without the latter's consent? In Tamilnadu case also it's the attitude towards crime and the criminal which led to this ghastly tragedy.

In Mumbai drug cases, also it is a 'spectacle' of NCB knights in shining armour trying to save Bollywood from drug menace of a few gram worth of cannabis etc, available in some states in licensed shops, makes the law enforcement questionable.

In brief, all the semantics apart, time has come when the police must define and understand its legal limitations and refuse to be part of popular social and political narratives. Registration of serious sedition cases should be based on investigation and not on drop of hat. Doing the job quietly and legally should be their mantra.

Afghanistan: Realities Compel Nuanced Approach

With the commencement of Intra-Afghan talks in Doha (Qatar) on September 12, 2020, India signaled a nuanced approach, while publicly endorsing its stand that the Afghanistan peace process must be "Afghan-led, Afghan-owned and Afghan-controlled" and Afghan soil should never be used for anti-India activities. Presence of an Indian delegation at the opening ceremony ended India's long isolation from Afghan affairs as also the debate on opening a line with the Taliban who are going to play an important role in Kabul.

After the Doha-Agreement (Feb 2020) between the US and Taliban ensuring a peaceful exit for the US armed forces from Afghanistan; the Indian policy of not dealing with Taliban (considered Pak proxy) and blindly supporting the current Afghan govt. came under intense pressure. It had to be reevaluated as situation had changed with the inevitability of the Taliban presence in any future govt. in Kabul and its possible dominance. A neutral peaceful and democratic Afghanistan is India's quest. With US and every country guarding its own interests, India with over \$ 2 bn investment in the country had been kept out of high-table on Afghan affairs due to Pak insistence. It had to safeguard its interests and deal with Taliban sooner or later.

But it could only be an tentative opening to be balanced with that

of the current Afghan govt. and others. The current US interest only seems to cut its losses and run with Pak-Taliban help. The history of Afghan internal politics since the First Anglo-Afghan War (1839-40), indicates that anyone ruling at Kabul with outside help had been ousted. Hence the Afghan-National govt. perceived to be bolstered by the US army seems to have a difficult future despite a large Afghan National Army to support it. Once the US army leaves, Pakistan will ensure Taliban rule in Kabul. However intra-Afghan talks and a peace settlement are going to take time given the differences and distrust.

Hence its sensible to open contacts with Taliban, hoping that sooner than later, the Afghan pride will make Taliban walk out of shadow of Pakistan and look for other regional powers to support it. Besides, a Taliban link would also safeguard our considerable investments in Afghanistan. Self-interest and real politics must trump past reservations and sentiments. Let Doha Inter-Afghan talks be a beginning of a pragmatic approach in the strife-torn Afghanistan. It is difficult with Pakistan as a major player at the moment, but it seems imperative to give it a chance.

—J.N. Roy

Corrigendum

The Article titled "Eighteenth-Century North India: Some Reflections on the Writings of French Traveller Modave", jointly authored by Ravi K. Mishra and Uma Shankar Pandey was published in the October-December, 2019 issue of the Dialogue Quarterly (Vol. 21 No.2). The names of both the authors appear in the soft version of the article. However, in the printed version the name of Uma Shankar Pandey is inadvertently missing. The error is deeply regretted.

Ravi K. Mishra
Deputy Director, NMML

North-East Scan

Assam Floods: The Cup of Eternal Woes

Patricia Mukhim *

Assam is suffering a triple whammy. First, the assault by the Coronavirus; then the Baghjan oil leak resulting in a massive fire that lasted over 50 days and inflicted heavy losses on nearby residents and on the ecology. And now the floods! Even for the most responsive of governments three calamities are more than they can handle, but handle they must. While the pandemic has been managed by Health Minister, Himanta Biswa Sarma who has taken that task as a personal mission, the consequences of the Baghjan fire and the floods don't seem to be anybody's business. Other than visiting the flood ravaged areas, the Chief Minister does not appear to have any plausible action plan on reducing the plight of the over 70 lakh people (figure quoted by CM, Sarbananda Sonowal to news channels) who have suffered on account of the deluge. Seventy lakh people are more than double the population of Meghalaya. That indeed is a humungous figure!

What would be of interest is the socio-economic profile of the flood-affected, amorphous, human population lost in statistics. Who are these people who get routed out of their hearths and homes year after year? Are they a negligible vote bank? Is that why the floods have never become a political hot potato during elections? Come 2021, Assam and West Bengal will be heading for the Assembly elections. God willing the Coronavirus would have taken leave by then. Elections usually happen around April-May. During that time, the River is not in spate and floods a non-issue. Floods are, after all, a seasonal curse. The CAA and NRC will subsume all development issues during elections because both have a huge constituency.

*The writer is Editor, The Shillong Times.

The Assam Floods begin by about June every year and last through the monsoons. They are an annual ritual of sorts. Reams of paper and gigabytes of software have gone into analysing the floods and in studying the contours of the 'mighty' Brahmaputra by experts from this country and abroad, but none of the prescriptions have been adopted or implemented. Consultants are paid for doing their work and telling us what those who have had to live with floods have known all along. For those who choose to defy the river it's a gamble. Those flood plains are where they grow their crops and vegetables and also where they survive in hutments. They are the only spaces that the affluent would not choose to live on. By the side of the embankments is what people with a choice to live elsewhere would shun. But what do those without a choice do? In 2014, I spent some time by the banks of the Brahmaputra in Dibrugarh and spoke to those living by the river banks, inside impermanent structures covered largely by thick plastic sheets. What they are living is not life; it's an existence and the local elite believe they are largely 'illegal migrants.' But isn't that true of all the char areas of Assam?

Flood experts have many prescriptions to dish out, one major one being that houses should be built above the flood levels. Some have tried to build their homes on stilts but the floods are relentless. The idea of a pucca house with strong pillars and for people to live on the first floor upwards would mean substantial investment of public money. Those living by the river banks and the most affected lot cannot afford such structures. True, that in both Upper and Lower Assam, many educational institutions are also under water. I once visited a college in North Lakhimpur whose ground floor was half covered with water.

It is also a fact that climate change which is largely human-induced has resulted in these flash floods. The massive tree cutting and dam building activities in the upper reaches of the Subansiri River in Arunachal Pradesh have resulted in heavy erosion. This is visible if one does a road journey following the course of the River. The tragedy is that there are no conversations happening between the state governments of Arunachal Pradesh and Assam or Meghalaya and Assam on how to develop better flood prevention systems by reducing deforestation in the hills. These days whenever we have very heavy rains in Meghalaya (and we have been having unprecedented heavy rains), our hearts go out to the people of Assam for that's the direction where our rivers flow. But even the plain belts of Garo Hills, Meghalaya are equally affected year after year because of the Brahmaputra. It makes sense to have joint policies on building more flood resilient populations and living spaces and in

controlling anthropomorphic activities wherever possible. The problem is that governments are very often in connivance with the timber mafia and the dam building lobby without considering the larger consequences of such decisions.

The tragedy is also that humans don't learn from destructive events even though they know the consequences of ignoring those lessons. One such lesson is that wetlands such as the Deepor Beel in Assam are critical in preventing floods apart from absorbing pollutants and therefore improving the water quality. They also support diverse wild life and rare plants. We learnt in school that wetlands are the sponges that absorb water and control floods more effectively than any embankment, especially those raised from sand like in North Lakhimpur which are washed away year after year – one futile investment by the Assam government for decades.

Looking at the huge benefits of wetlands in that they function like kidneys in the human body and filter out nitrates, phosphorus and heavy metals to provide fresh drinking water, one wonders why Assam is unable to prevent the crowding out of Deepor Beel. It took the National Green Tribunal (NGT) to propose strong action after a petition was filed by environmentalist, Rohit Chowdhury in August last year. One can see that the Deepor Beel is heavily encroached upon and is even turned into a dump-yard. Just how callous can governments get! The NGT had directed the Assam Government to prohibit further encroachments and to take steps to remove existing ones. Deepor Beel like other wetlands across the country is protected under the Ramsar Convention on Wetlands, 1971. But this Convention does not seem to be taken seriously by most governments.

Driving past the Beel en-route to Guwahati Airport and from other vantage points one can see encroachments galore. So much so, the Beel which was once a sprawling 4000 hectares is now just a shadow of itself at 500 hectares! All around it human habitations have come up. The hillsides surrounding the Beel are being cut to make way for buildings and government institutions. Petitioner Rohit Chowdhury also stated that sewage water is released into the Beel. This is the result of an unplanned city that Guwahati has become. But it's not just Guwahati; every other city in this country has expanded without any sustainability model and now we have the smart city concept when we cannot even protect a freshwater lake that sustains our ecology!

It is not that the Deepor Beel is the answer to Assam's flood woes but it is an ecological treasure with many benefits and ignoring those will lead to larger catastrophes. Deepor Beel is also an example of what happens on a larger scale all along the banks of the Brahmaputra. And why flood prevention is not a serious issue for any government!

Fault Lines in Our Economic Structure and the Challenge of Mending Them

M.P. Bezbaruah*

The COVID 19 pandemic has thrown economies all over the globe into tailspins. With little sign of the contagion subsiding in the near future, the talk of v-shaped recoveries has given way to more pessimistic forecasts of the economies. This shock – which caught us all unaware, and its after effects have exposed some fault lines in our economic structures. While the country is currently mustering all resources in confronting the health crisis while preserving peoples livelihood, mending these fault lines should receive high priority once the crisis is overcome.

While our economy as a whole has shrunk, those dependent on the informal economy, such as the self-employed petty traders and micro-entrepreneurs, daily wage earners, those engaged in formal establishments but through labour contractors, farmers etc. have been disproportionately bearing the brunt of the social distancing and lockdowns. With 85 to 92 per cent of its work force being engaged in the informal economy, a vast majority of population of India is vulnerable to such shocks as the present pandemic.

The present crisis has brought to fore the role of migrant workers in the economy of India and Assam. The migrant workers primarily originate from the States which have been relatively left behind in the post globalization Indian growth process such as Uttar Pradesh, Bihar, Jharkhand, Assam, Madhya Pradesh and Odisha. Their destinations

have been the States which have prospered in the post reform period such as Gujarat, Maharashtra, Andhra Pradesh, Telengana, Karnataka, Kerala, Punjab and Haryana. Labour migration has actually worked as a medium of sharing of benefits of growth from high growth regions to relatively less developed regions of the country in a number of ways. First, Remittance workers send home enhances disposable income of their native States. These remittances go directly to the wellbeing of the relatively poor families from which the migrant workers hail. The number of such migrant workers from Assam who were working in rest of India before the lockdown has been estimated to be about 10 lakhs. A conservative estimate of their remittance back home is Rs 360 Crores per year, which match up to 1 per cent of Net State Domestic Product of Assam. Migration also reduces supply pressure in local labour markets preventing real wages from being depressed. This benefits workers who stay back in the state. Thus migrant workers have been contributing to well-being of their families and native States, though many of them have been working and living in unsecured conditions.

Given that a large section of migrant workers suffered miserably during the lockdown, it is doubtful that the worker will be ready to return to their work places as soon as the contagion is managed. If majority of them decides to stay put, the economies in both their home States and the migrant receiving States will have difficulty in recovering lost ground quickly. While the home States will have the burden of accommodating a larger work force, the destination States will face a shortage of workers. As a result, the recovery of the entire Indian economy may be adversely affected. It will be the responsibility of the State and the Union Governments to ensure that migrant workers are better looked after, so that the misery they suffered is avoided in the future. In particular, Governments must ensure their better working and living environment. The Prime Minister of India has already mooted the idea of setting up of a Migration Commission to look into the issues related to migrant workers in a comprehensive manner¹.

Overwhelmingly informal nature of employment in India is sometimes blamed on the labour laws being too much in favour of the organized sector employees². Because of the provisions of these laws, it is argued, that anyone who is hired formally cannot ever be virtually fired, irrespective of his/her output contribution or state of business of the employer. This situation apparently discourages direct recruitment in the organized sector. Workers for unskilled and semi-

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skilled jobs are therefore informally obtained by organized sector firms through labour contractors. Though economists have been arguing that reform of labour laws can lead to expansion of employment in the organized sector, reforms in this area has been kept pending by successive governments apparently due to politically sensitive nature of such reforms. Now in a bid to attract firms attempting to relocate production base out of China, many State Governments have hurriedly announced some changes in the labour laws. However, the contents of these reforms are questionable. Instead of addressing the insecurity of unorganized sector workers, these hurriedly brought in reforms seek to dilute the meager social security provisions for workers. Such hurried and insensitive measure will not stand the country in good stead in its bid to formalize the economy. On the contrary, the steps are likely to increase vulnerability of its workers.

Government has taken many welfare measures to counter the situation. These include free or highly subsidized food supply, direct relief through cash transfer etc. Subsequent relief packages announced by the Union and State Governments are aimed at giving relief to farmers and establishments of different sizes. However, in a State like Assam, due to insufficient AADHAR card penetration, many may have been left out from the network. Elimination of exclusion error from the list of beneficiaries is the need of the hour.

The requirement of maintaining social distance has moved many activities including education to the online mode. Given that there is a digital divide due to (a) inadequacies of telecommunication network coverage, (b) non-possession of equipment for availing online services and (c) generational gap in ability to adapt to the digital mode of doing things; this change-over to digital mode is also likely to aggravate inequality. The shift to digital mode may be one of the more permanent impacts of the contagion. The inequality in accessing online education can have long term impact on socio economic inequality. Steps to reduce the digital divide should receive high priority

Prime Minister of India has meanwhile called for an *Atmanirvar Bharat* (self-reliant India). The Chief Minister of Assam has also expressed the view that the State of Assam should be self-reliant at least in production of basic necessities. The idea of self-reliance is not well defined and requires interpretation in given context. Neoclassical Economics advocates free trade rather than

protectionism by nations and regions. Ideally countries and regions should specialize in their areas of comparative advantage so as to maximize world production and then trade with each other for sharing the bigger global output. Self-reliance in this context would mean being able to export enough to be able to pay for imports. Post globalization, as movement of capital became freer; the idea came to be understood in an even easier form. A country which had enough inflow of foreign exchange to be comfortably importing the goods and services it intended to import could be thought to be self-reliant. However, with protectionism and trade wars looming large in recent times, the old fashioned idea of self-reliance has made a comeback. What our honorable Prime Minister seems to suggest is that we should be producing as much goods and services as possible domestically, and reduce our dependence on foreign suppliers.

In a region like Northeast India, which has been in geographical quarantine of sort since the partition of India in 1947 and is prone to complete isolation in times of natural calamities, some amount of self-reliance in production of basic consumer goods may be strategically justified on the ground of greater food and consumption security. The goods targeted for self-reliance in production may include food grains, pulses, fruits, vegetables, eggs, fish, meat, packaged biscuits, feed and fodder for fishery and livestock sectors, basic medicines and surgical materials etc. Import substitution should not be attempted in areas where cost of producing locally is going to be prohibitive.

Out of this devastation some prospective areas are of course bound to emerge. Health care and its related sectors will be one such area. Perhaps the world now on will invest more resources in research and delivery of healthcare. Hopefully the world community will learn its lessons from this pandemic and be better prepared for meeting such disasters in the future. This will require realigning of research efforts and investment to constructive and peace enhancing activities rather than armament, war efforts and hate mongering.

Notes

- ¹ EPW Editorial (2020) Migration Commission, Economic and Political Weekly, Vol. 55, No. 26.
- ² Bhagwati, Jagdish & Panagariya Arvind (2014) Why Growth Matters, USA: A Council of Foreign Relation Books, Public Affairs, New York. Chapter 8.

In Fighting Its Crises, Manipur Often Digresses Into Irrelevant Side Issues

Pradip Phanjoubam *

Two events largely dominated headlines in Manipur through most of the past three months. One is an immediate emergency, the other a sustained long term one. The first has to do with the COVID-19 pandemic in the state, and indications that initial community spread may have begun in certain pockets. The second is the drugs menace the state has been faced with for a long time and still is faced with today, brought back into sharp focus over the arrest of an alleged politician kingpin and subsequent spiralling outrage over the case which has come to even implicate the chief minister of the state, rightly or wrongly.

As in most issues in Manipur, both cases are replete with their shares of tragedy and comedy, gravity and frivolity. Witnessing these events unfold cannot but evoke once again the idea of “the theatre of the absurd” so often used in the past to describe politics in Manipur. It is interesting that in both cases, the analogy of war has been used, hence just as it is Manipur Government’s “War Against COVID-19”, the government has also been in equal earnest trying to conjure up an image a “War on Drugs” it is fighting. Indeed, both these issues are wars, and without doubt need to be fought on war footings. This is why the mix of seriousness and farcical in their handling, as all cases of importance in Manipur are generally reduced, spells danger. The tendency has been for the frivolous to overshadow the serious, diverting public attention from the core of the issue to the periphery and tangentially insignificant.

What needs to be taken note of seriously, but often ends up ignored, is that both are pandemics. The problem they pose are therefore not unique to Manipur. There are both disadvantage as well as advantage in this fact. The advantage is, there will be plenty to learn from the successes and failures of others who have fought and are fighting the same scourge. The disadvantage is Manipur cannot possibly defeat either of these global problems alone. It can strive to keep itself clean, but unless the global environment on these matters improve, local

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successes cannot ever be watertight or permanent. This being so, a linear vision of either of these two problems would be a fallacy. Both call for multi-pronged battlefronts, and sadly the authorities in Manipur do not seem to see from this vantage, and seems rather inclined to treat them as local challenges capable of generating only local heroes and villains.

Take the case of the tragi-comedy in the COVID-19 emergency. It must be said, Manipur reacted to the pandemic outbreak in India earlier than most other states. For instance, the nationwide shutdown, after a one-day Janata Curfew on March 22, began on the midnight of March 24. In Manipur, partly to pre-empt street protests against the news of nomination of the Titular King, Leishemba Sanajaoba as the BJP candidate for the then approaching election to the state’s lone Rajya Sabha seat, the shutdown began at least a week earlier. This it must be said is good, for it indicates a rare level of concern. It also raised awareness of the imminent danger looming over our horizon amongst the larger public early.

Things however changed for the worse not much later, when on March 24, Manipur first COVID-19 case became known. A girl returned from her studies in London returned home on March 21 and then after showing symptoms of the disease, tested positive and was hospitalised on March 24. The state broke into a pandemonium thereafter and all senses of sanity became lost, throwing wild allegations at the unfortunate girl on the internet and on television. A week later, on April 2, another man returning from a religious congregation in Delhi too tested positive making the state descend further into the abyss of madness. Even in war, this is generally the response of losers, and it was disappointing to discover that there is a great section of the population who are given to this ostrich like mentality and believe hiding their heads in the sand would save them from all approaching dangers. All sense of valour and discipline of war, and received wisdom such as that of “every single life matters”, were thrown into the wind by this inward looking section whose only concern seemed to be to shield themselves alone and not stand together to put up a common front against the common challenge. They even wanted Manipur’s outward job and student migrants of over 50,000, at the time put under extreme duress because of loss of jobs or else shutting of the hostels they were staying, to not be allowed to return home for fear some of them may return with the virus. With the advantage of hindsight, we do now know about 2000 of the 50,000, or about 4 per cent, who returned in phases did come back with the virus.

But such are the prices all societies must be ready to face and pay in any human crisis. Thankfully, better senses prevailed, and for fear of the 4 per cent, the state did not allow them as well as the other 96 per cent to suffer unduly just so as to please the paranoid section of our society. We also now know, things do not have to go out of control so long as close monitoring through comprehensive testing, quarantine and contact tracing of all vulnerable sections are done systematically and with discipline.

If this ignorant and selfish paranoia was an attribute of a section of our society, there was also the tendency towards braggadocio of those in power, whose interest lies more in claiming credit for success than a close assessment of the challenge and its nature so as to fashion the most effective, appropriate and proportionate responses. When the virus began first showing up in the state towards the end of March, as it would have done sometime or the other, instead of trying to come up with a realistic assessment of the challenge ahead, the government began playing to the gallery. When the first patient was discharged from the Imphal's JNIMS Hospital, it went ahead to celebrate as if victory had already been won, rewarding the hospital Rs. 35 lakhs. Now Manipur has seen over 2000 cases, over 650 of whom are still active, exposing how silly the government's initial response was. Despite so many reminders, the government refused to see that the challenge was closer to a marathon and the need was for not expending too much energy so that the state's reserve is able to last out the entire race. Notwithstanding this advice, the government did the flamboyant thing of treating the challenge as a high-profile 100 meters dash, imposing lockdown tougher than required among others, exhausting the people more than needed. And now, when it does seem the contagion is not just about to disappear in the near future, fatigue, threats of starvation and complete ruins, are coming in the way of earning active cooperation from the people.

The other case is that of the war on drugs. As suggested before, the battle plan would have to be multi-pronged. The arrest of an alleged kingpin is indeed very important, for the scourge would have to be fought as a law and order problem as well, though by far not the only strategy. It is also important that justice is delivered and fitting penalties awarded in this case, but this justice would have to be procedural and not just what anybody or any party considers as justice. What the people must pressurise is for this procedure to be completed at the soonest possible, uninfluenced by anything but established rules of law.

Unfortunately, too much energy and attention has been allowed to be diverted to peripheral issues, so much so that the original case is somewhat coming to be relegated to a secondary position. For instance, the uproar over the grant of bail to the accused is good to the extent that it has brought the case into sharp public focus, but what is often forgotten is that bail is only a means of facilitating the progress of the case and not the case itself. Hence, granting bail does not amount to exonerating an accused of guilt, just as not granting it does mean pronouncement of guilt on the accused. Let there then be sane moderation so that what we seek is justice. And this justice must not be allowed to acquire the semblance of a bloodlust.

US-Taliban Peace Deal: Implications for India

Prof. Nirmala Joshi*

The US Taliban Peace Deal signed at Doha on 29 February 2020 is indeed historic. It has ended the over eighteen years 'war on terror', which was leading to nowhere. The Deal was negotiated by US special envoy Zalmay Khalilzad and Mullah Mohammad Baradar from the Taliban side. After several rounds the Deal was hammered out after nine rounds of talks spread over a year (2018-2019). Interestingly the US negotiated the Deal with the Taliban, which it had considered as a terrorist organization and till date has not recognized the Islamic Emirate of Afghanistan as a state. The US refers to it as a Taliban. Nevertheless it has given the Taliban legitimacy and political space. However, there were preconditions before the intra Afghan talks could begin. One was the Afghan government would release 5000 Taliban prisoners into custody and the Taliban on its part would free 1000 Afghan officials and security personnel which it had captured. The question is, given the prerequisites for talks, will the Deal bring peace and stability to Afghanistan? Although efforts at peace making are not new, however the earlier attempts proved inconclusive, only the present Deal reached the signing Table.

The first attempt at peace-making was made by President Najibullah in December 1986. He launched the policy of National Reconciliation. His government unsuccessfully sought to end the Afghan conflict through a state run reconciliation programme. President Najibullah's policy failed as it could not win the support of the major stakeholders in the Afghan conflict.¹ Similar attempts to reach out to the Taliban were made by

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President Hamid Karzai in 2001. In February he initiated 'Strengthening Peace' programme. Later he established the Independent National Commission for Peace and Reconciliation (INCPR). In due course the High Peace Council (HPC) was formed in 2010 with the objective of working towards reconciliation.² The latest establishment of the National Reconciliation High Peace Council under the leadership of Abdullah Abdullah was formed with a mandate to negotiate with the Taliban all affairs pertaining to peace and reconciliation. It is not certain when the intra Afghan peace talks will begin unless the initial preconditions set by both the sides are fulfilled.

Meanwhile external stake holders had also made attempts at peace and stability. In July 2015 Pakistan facilitated the first round of talks between the Afghan government and the Taliban in Muree. The Muree peace process could not be taken forward due to the announcement of the death of Mullah Mohammad Omar, Head of the Taliban movement.³ In February 2017 the Russian Federation organized a Six Party Meeting in Moscow at their first consultation on the issue of peace. India participated at the non-official level. The Peoples Republic of China has been in regular touch with the Taliban leadership and has invited the leaders to Beijing for discussion. It remains to be seen whether the US negotiated Peace Deal would bring peace to Afghanistan. The US began negotiations in December 2018 and nine rounds of talks were held when the Deal was hammered out.

As mentioned the intra Afghan talks have yet to begin, but the tenacity with which both the sides pursued and signed the Deal on 29 February 2020 indicates their deep motivation. We shall now examine the motivating factors that compelled both the sides to arrive at a conclusion.

The Peace Deal

In brief the highlights are: the US and its allies will withdraw all their forces from Afghanistan within 14 months, if the Taliban abide by the terms of the accord. The US officials however, say the eventual withdrawal of all troops is not contingent on any specific outcome in the intra Afghan talks. An equally important aspect relating to withdrawals will depend on the Taliban meeting commitments to combat terrorism. Will the Taliban fight against other jihadi groups? One of the prerequisite was exchange of prisoners by 10 March. It is not clear how this would happen. For President Ashraf Ghani retorted at a press

conference "... noting that any release is not in the authority of the US. It is in the authority of the Afghan government".⁴ The Deal is fragile as certain questions have remained unanswered. In spite of the fragility what motivated the two sides to reach the Deal?

U.S Interests

The prime motivation of the USA was to extricate itself from an endless war that led to nowhere. The insurgency had proved resilient and there was no let up in violent acts throughout the country. Politically the Afghan government had still to complete its transformation to a democratic polity and had a long way to go. Even the Afghan security forces were in a transformative mode and hence at times unable to respond to security challenges in adequate manner. Given the uncertain scenario with low prospects of success the US opted out of such a situation as it had withdrawn from Vietnam without achieving its objective. In a perceptive comment Ambassador Rakesh Sood wrote since 'a major power cannot be seen to be losing a war, certainly now in an election year, a re-labelling of the withdrawal becomes necessary' Even former U.S Defence Secretary General Mattis said "The U.S does not lose wars, it loses interest".⁵

It is also doubtful whether the Deal will be durable, for many aspects have been left out. Echoing the prevailing view Baroness Sayeeda Warsi, a former Minister of State for the Foreign and Commonwealth Office who worked directly with the government of Afghanistan had remarked "I am cynical as the U.S elections are coming up. She had also expressed doubts about the future role of Taliban".⁶

What Motivated the Taliban?

On the other hand the earlier Taliban's reluctance to negotiate with the "enemy" – the US – it was now ready to talk. One possible factor could be the change of tactics on the part of the new leadership of Mullah Abdul Ghani Baradar. They may have realized that violence was not the best tactic to get 'foreign occupation' out of the country. Being a military organisation the preference was for a military solution, but after years of violence the Taliban realized the goal was not achievable by military means. The alternative was to negotiate with the enemy something they were really not ready for but now wanted to ensure its withdrawal and then capture power. Young leaders think more in terms of power, economic development and that was perhaps the best way to spread the tenets of sharia law.

Besides it is perceived by the Taliban that the present government is in a weakened position due to the on-going political turmoil, the ethnic discord which could lead to eruption of violence and civil war. From the point of Taliban's strategic thinking they wanted an end to the US support for the Afghan forces and felt confident that in such a scenario with Pakistan's continued backing they would be able to prevail over Afghan government forces.⁷ Now that there is an agreement between President Ghani and his main rival Abdullah Abdullah the government is no longer in a weak position. Dr. Abdullah Abdullah would head the National Reconciliation and High Peace Council, and has been given full authority to handle and take decisions on issues of peace and stability of Afghanistan. As Head of the High Peace Council Abdullah would lead the intra Afghan talks with the Taliban. There is a point of view that believes that one of the motivating factor for the push to sign the Deal is a power struggle between the Taliban and the Islamic State of Khorasan Province (ISKP). This is a moot point and needs further debate.

Trajectory of the Deal

The Deal was signed on 29 February and since then has been facing rough weather. The next step before the intra Afghan talks could begin there were preconditions from both the sides. As mentioned the government would release 5,000 Taliban prisoners and the Taliban was expected to free 1000 government officials in its custody. Earlier President Ghani in a sharp retort at a press conference had refused to comply with the demand. "There is no commitment to release 5000 prisoners. Noting that any release is not in the authority of the U S. It is in authority of the Afghan government "... Probably under pressure by the U.S special envoy Khalilzad who was in Doha and Kabul (26 April 2020) to take the peace process forward the government released approximately 1000 prisoners. Reportedly the detainees are based on age, vulnerability to the virus and time served. While the Taliban has freed around 55 (exact number not known. To what extent his efforts will succeed only time will tell.

There is no doubt that the peace process has entered a rough phase and intra Afghan talks are yet to begin. Incidentally the Taliban leaders consider the Ashraf Ghani government as corrupt and a puppet of the U S . The Taliban has not recognized the Afghan government. Due to lack of progress in the talks the Taliban leaders have ordered its fighters to resume operation against the forces (this is in violation of one of the

terms mentioned in the Peace Deal). In accordance with the *diktat* issued by its leaders a deadly daylight assault date on a maternity hospital in Kabul killing at least 24 people including infants and nurses was launched. In a statement issued by the Taliban it said “From now onwards the responsibility of further escalation of violence and its ramifications shall fall squarely on the shoulders of the Kabul administration”.⁸ Even during the holy month of Ramzan a mosque was attacked which killed 8 people.

The goodwill gesture of a ceasefire by both the sides during the Eid-ul-Fitr has created to an extent a congenial atmosphere. It is hoped that this would pave the way towards much awaited talks. However, the future path is strewn with difficulties. The sticky issue would be should the question of governance be discussed on the basis of Afghanistan’s democratic Constitution or on the one framed by the Islamic Emirate of Afghanistan based on Islam. The issue of future political set up is indeed a highly vexed one. It remains to be seen how it will be solved. It may be added that the various factions and groups within the Taliban have consistently opposed any dialogue with the “enemy”. Given Taliban’s political vision and extreme centralisation as stated in its Constitution of 2004, a Taliban spokesman Zabiullah Mujahid said “...no law can be contrary to the beliefs and provisions of the sacred religion of Islam”.⁹ Here it is worth mentioning what Mullah Fazel, a former top Taliban military commander and senior member of the Taliban negotiating team in Doha said in a speech on 25 March to supporters in Baluchistan: “The Amir or leader will be ours. There will be an Islamic Emirate and there will be a system based on Sharia Islamic law”.¹⁰ It is evident that the strategy was intact only the tactics had changed. An equally sticky issue is would the Taliban along with the government join hands on counter terrorism activity? It appears distant that the Taliban would oppose other *jihadi* groups. Recent reports suggest that the Lashkar-i-Toiba, then Haqqani network and the Islamic State of Khorasan Province (ISKP) have come together to pursue their agenda of capturing power by violent means. In view of the fundamental differences on their political vision and strategic thinking can the Deal usher in genuine peace and stability?

Nevertheless the pressure for talks will be exerted by the US on the Afghan government and that by Pakistan on the Taliban to fulfil the terms agreed upon. Although the Taliban has violated the terms by its persistent violent activities, the US is keen to see that the intra Afghan talks begin. For the US it would be an honourable exit from a quagmire

in an election year, while for Pakistan to see the Taliban in power would be one of its cherished ambitions becoming a reality.

Pakistan seems to have gained the most with the Deal. Working through the Taliban it seeks to play the king maker’s role in Afghanistan’s affairs. The Deal has also provided Pakistan with an important leverage *vis-à-vis* the US. Pakistan would aspire to influence all decisions of the Afghan government and make all efforts to exclude India from the Afghan political scene. Here it is worth quoting what Pakistani Foreign Minister Shah Mahmood Qureshi said “Pakistan does not want any security role for India in Afghanistan as he accused New Delhi of playing the role of a ‘spoiler’ in the war torn country”.¹¹

Pakistan’s biggest advantage is its strategic location. It has already built strong security and foreign policy ties with China and is cooperating in its Belt and Road Initiative (BRI). With the US Pakistan has leverages because of its strategic location. On the other hand the U S is keen that, India talk to the Taliban. In this regard American envoy Khalilzad visited India to persuade the Indian leadership to resume a dialogue with the Taliban. However, Pakistan’s ties with India are frozen and perhaps there appears no solution of a defreeze in the short to medium terms.

India’s position on the evolving situation especially on India’s reluctance to talk to the Taliban prior to the talks has been well articulated by former Ambassador Amar Sinha. In an interview to a question on engaging with the Taliban he said “At present the Taliban is a destructive force. It will become a political force only when it joins the intra Afghan talks. Otherwise at best the Taliban can pretend to be some sort of a government in exile based in Doha conducting negotiations with other players, but not with the people in Afghanistan”.¹² In view of the uncertain and a volatile situation what are the implications for India?

Implications for India

As in the past after the Soviet forces withdrew from Afghanistan in 1989, the US lost interest in the region and reduced its military presence. ... However the numerous *Mujahidin* groups located in the borderlands of Afghanistan-Pakistan were not disarmed.. Pakistan began to look upon these groups as ‘strategic asset’ to be used on its Eastern border with India. Hence Indian concerns *vis-à-vis* the Taliban originate from their close links with Pakistan, with their fundamentalist disposition and the known involvement of Afghan mercenaries in Jammu and

Kashmir militancy”.¹³ Indian concerns were not unfounded for many of the extremist and terrorist groups and organizations that had sprung up during the ten year war with the Soviet Union were neither disarmed nor their infrastructure dismantled. These extremist groups were well trained, well-armed and had a safe haven in Pakistan, and importantly ready to fight with the militants in Jammu and Kashmir.

There is real apprehension that the post scenario could once again be repeated. There could be a further surge in terrorist activities in the Union Territory of Jammu and Kashmir. In an apt observation by Retd. Lt. Gen. Syed Ata Hussain wrote about the Pakistani game plan. In his view “A mix of Afghan Pakistani and local Kashmiri terrorists inflicting higher Indian casualties through another long drawn campaign will impact the Indian hinterland giving rise to greater antipathy towards the Kashmiris and Indian Muslims and thus weaken India’s social fabric”.¹⁴

As of now the Line of Control (LOC) is not peaceful with attempts by Pakistan to infiltrate into the Union Territory. Such attempts will continue and also have been repelled the Indian forces. However the Afghan political scenario needs to be carefully watched and India should be prepared to meet the challenges of a worst case scenario.

Secondly India is concerned about its investments, trade, infrastructure development and its personnel. This concern is valid because in the past Taliban targeted Indian personnel working on projects. Indian aid is over USD 2 billion and is one of the highest donor. India’s focus has been on reconstruction and economic growth. A unique feature of India’s economic engagement is, the Small Development Projects. They provide assistance to build Afghanistan’s infrastructure, and institutions, education and technical assistance to re-build indigenous Afghan capacity in different areas encouraging investments in Afghan natural resources.

Thirdly, India’s strategic vision broadened and its interests go beyond the immediate neighbourhood to its extended neighbourhood of Central Asia, Afghanistan and Eurasia. Ever since the Tripartite Agreement between Afghanistan, India and Iran in May 2016, the Chabahar port became the gateway to reach Afghanistan and the Central Asian Republics. The Agreement has improved India’s accessibility to the region. India is also involved in the development of the Chabahar port. With the opening of the Chabahar port Indian economic activity in Afghanistan has received a major boost particularly in the mining sector.

Given the high stakes in Afghanistan’s peace and stability as well as to connect with the Central Asian region, India has initiated a proactive diplomacy. In Afghanistan it should maintain its economic presence and possibly enhance it. With the Central Asian Republics Indian engagement with all the Republics has increased. Indian engagement is at the bilateral as well as at the regional level, for example, the Track-I Dialogue. At the multilateral level it has supported the Istanbul Process – the Heart of Asia – that aims to focus on Afghanistan as the ‘Land Bridge’ to Eurasia. Similar initiatives at the Shanghai Cooperation Organization is supported by India. However, with the onset of an emerging new Cold War between the US and China, it is possible that the regional geopolitical, security and economic scenario would undergo change. India should be prepared and proactively involve in the region in the interest of its high stakes.

Concluding Observations

At present the US-Taliban Deal is in a limbo for the pre-conditions agreed upon for the intra-Afghan talks are yet to be fulfilled. However, a major hurdle lies ahead. The difficult question is what should be the basis for the political talks? Would the future political set up be based on Afghanistan’s democratic Constitution or on the one drafted by the Islamic Emirate of Afghanistan whose principal tenet is Islam? This is a highly emotive issue within the Taliban and could lead to further fragmentation of the fractious movement. Meanwhile Afghanistan is witnessing a spike in violent incidence.

Despite its reluctance to talk to the Taliban, India should maintain its presence especially in the economic sphere. Its approach should be to strengthen its bilateral ties and actively involve in the affairs of the region.

Notes

- ¹ Ahmad Shaye Qassem, “Afghanistan’s Political Reconciliation Policy: Ill Conceived and Self Defeating“, **Strategic Analysis**, vol. 38, no. 4, 2014.
- ² Ibid.
- ³ Saman Zulfqar, “Challenges for the Afghan Reconciliation Process“, Daily Times, 10 August 2015.
- ⁴ **Hindu**, 2 March 2020.
- ⁵ **Hindu**, 5 March 2020.
- ⁶ Katerina Tilia Kou, “Will the US-Taliban Agreement lead to real Peace“,

TRT World, 3 March 2020.

⁷ **Dawn**, 1 March 2020.

⁸ **Hindu**, 14 May 2020.

⁹ **Article 3, Chapter I, The Constitution of the Islam Republic of Afghanistan, RFE/RL**, 1 March 2020.

¹⁰ Abubakar Siddique, "Are the Taliban Committed to Negotiating Peace in Afghanistan?", Gandhara RFE/RL, 31 March 2020.

¹¹ **Hindu**, 7 March 2020.

¹² *Ibid.*, 18 May 2020.

¹³ Ministry of Defence, Government of India, Annual Report 2000-2001.

¹⁴ Syed Ata Hussain, "Afghanistan's Kashmir Fall out", Times of India, 13 March 2020.

Afghanistan - India's Unending Dilemma

Indranil Banerjee*

Afghanistan has been a headache for rulers in India for several centuries now. At one time, the problem was of marauding Afghans who would gallop down to the plains of Hindustan looting and killing. Then for a time, ambitious Afghan clans fought their way into all parts of India right up to the extremes of East Bengal to establish independent kingdoms turning locals into virtual serfs. Afghan territories were also the paths through which other invaders entered the Sub-continental plains, from ancient Scythians to Turks, Uzbeks, Persians and others. The movement into India has been long and continuous and ended only with the advent of British rule and a policy that sought to stop invaders at Afghanistan's frontiers. The key to India's strategic stability, as envisaged by British strategists, lay in maintaining Afghanistan as a neutral buffer state. The keyword, in this context, is "neutral". The moment neutrality was lost, the argument ran, Afghanistan would once again become a source of sub-continental instability.

With the departure of the British from the subcontinent and the creation of Pakistan, India was cut off from Afghanistan and much of the bilateral links snapped or weakened. Pakistan became a key Western asset in their grand strategy to manage the Middle East and its valuable hydrocarbon resources. The newly created state of Pakistan retained the Afghan areas carved out from Afghanistan by the British and refused to return them to the government in Kabul. This was partly because Pakistan's leaders detested the idea of losing their territories west of the Indus and partly because they wished to keep Afghans divided and hence weakened. Over time, Pakistan's rulers sought to dominate Afghanistan and eventually military leaders in Rawalpindi saw

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Afghanistan as an opportunity, a place which could provide them “strategic depth” during any future confrontation with India.

The great opportunity to meddle in Afghanistan affairs came with the Soviet invasion of that country in the late 1970s and the sponsoring of the Afghan jihad by the United States. The success of the Pakistan backed and controlled Afghan Mujahideen convinced Rawalpindi that Afghanistan could be controlled and dominated by their Afghan proxies. When Gulbuddin Hekmatyar and other Pakistani sponsored Mujahideen could not deliver, the Taliban was created in the mid-1990s and pushed into Afghanistan along with Pakistan Army elements to forcibly occupy that country.

The events since the Soviet invasion of Afghanistan amounted to the end of Afghan neutrality which the British had always so assiduously tried to preserve. Pakistani domination of Afghanistan was a catastrophe for India in every respect: Indian officials were thrown out of that country and anti-Indian forces nurtured within its territory. The hijacking of an Indian Airlines aircraft in 1999 and the subsequent events that ended with the release of four prime terrorists to the Taliban at Kandahar Airport was the culmination of Indian humiliation by Pakistan and the Taliban regime.

The Taliban experience once again proved the sagacity of the view that Afghanistan must stay neutral. Pakistan, on the other hand, is determined to see that it does not. The US invasion (2001) of Afghanistan following the 9/11 attacks was a huge setback for Pakistan’s military but gradually it recovered from the humiliation and once again began stoking the fire within Afghanistan with the aid of a revived Taliban and other more vicious groups such as the Haqqani network. Eventually, Pakistan won the war of attrition against the United States military and now is in the process of completing a deal for the withdrawal of US forces. This victory is not so much of the Taliban but of Pakistan’s military rulers. Their determination, single-minded pursuit and ability to weather a storm in relations with Washington has eventually triumphed. The Taliban once again have set their eyes on usurping power in Kabul.

It is assumed that once the US forces leave Afghanistan, the current, divided and weakened government in Kabul will cave in. This is a distinct possibility since the Pakistan Army will be unrestrained and will push in their soldiers under the guise of the Taliban. Most analysts suggest that the present Afghan government forces will not be able to resist for too long. A Taliban government is thus considered a fait accompli.

Some Indian strategic thinkers have suggested that since it is inevitable the Taliban will once again come to power in Kabul, New Delhi would be best advised to start talking to them in order to establish some sort of modus vivendi. The proponents of dialogue with the Taliban argue that some sort of relationship is important for New Delhi with any power in Kabul, no matter whether it is the Taliban or anyone else. India, they add, has invested heavily in Afghanistan and a continued presence is necessary to maintain those assets and foster relationships.

Some Indian experts, like Dr. P Stobdan, former ambassador and analyst, also argue that the Taliban should not be viewed entirely as Pakistani proxies. “Taliban is entirely an ISI’s progeny may not be the whole picture. Its resilience all these years couldn’t have been sustained by Pakistan alone. The Afghan problems mostly stem from within. The country’s chronic ethnic complexity, tribal dynamism, poor governance, corruption, nepotism et al have been beyond the deliverances of any government...No doubt, the Taliban will depend on Pakistan for many things. But no Afghan will like to remain a pawn in Pakistan’s hands forever. Knowing Pakistan’s constant quest for ‘strategic depth’, Kabul will look to New Delhi to safeguard its sovereignty”, he writes [*Should India Foster Ties With Taliban Despite Its Past Misdemeanours? By P Stobdan, 28 April 2020, Outlook magazine*].

Stobdan also maintains that “India’s non-acquiesce to Taliban was mainly for it being a Pakistani proxy. This aspect needs careful analysis and treatment. It can be rectified by bringing some rationality, especially, stop looking everything through the Pakistani lens.” He feels that assessing Taliban “without bundling it with Pakistan” suggests there “are several visible indicators of Taliban’s changed behaviour noticed during the recent Covid-19 outbreak. Their awareness campaigns to stop the spread of virus and restriction on mosques gatherings even outmatched Pakistan and India—a change from the past when they killed health workers.”

There is therefore an opportunity for India in engaging the Taliban, especially since Taliban’s spokesperson Mohammad Suhail Shaheen said it wants to build ties with India and is willing to enact a law against foreign terror groups conducting operations against any other country. Stobdan feels the “Taliban’s keenness to build ties with India needs a fair scrutiny” and that ideological differences should not come in the way. He also writes that the “Taliban has been seeking opportunities to mend fences with India” and these “are positive signs and if the Taliban’s intentions are good, India should also step forward

to recognise the changed reality and pragmatically engage with the Taliban regardless of their past adversarial attitudes towards India. By any standard, the Taliban or any other Afghan faction will never find adequate ground to pursue the Pakistani-style hatred against India.”

Former diplomat and ambassador to Afghanistan, Vivek Katju has also written that “New Delhi’s Afghan policy needs changes and must include openly talking to the Taliban and all other political groups [*Getting India back to the Afghan high table, Vivek Katju, May 18, 2020 The Hindu*]. “If India’s foreign and security policy planners had anticipated developments in Afghanistan they would have pursued nimble approaches, seeking to establish open connections with all its political groups, including with those perceived to be in Pakistan’s pocket. Instead, they continued to rigidly cling to Afghanistan President Ashraf Ghani even as his equities diminished with each passing month”, he wrote.

Ambassador Katju argues that India does not have a place on the Afghan high table and has been completely side-lined by both the US and Afghan governments. The US, he writes conveyed a “blunt message” to India that ‘India should talk directly to Taliban, discuss terror concerns directly.’ The US view, according to Katju, is that “despite India’s contributions to Afghanistan’s economic development — and these are undeniably significant covering large parts of the country, and are popular — as well as its long history of contacts with that country, it does not have a place in international diplomacy on Afghanistan. As Mr. [Zalmay] Khalilzad put it: “But when it comes to international efforts, India yet does not have a role that it could.”

Katju pointed out that Zalmay Khalilzad, the US points man on Afghanistan, said: “I believe that dialogue between India and the Taliban are important, and it would be important that issues of concerns like this [terrorism] are raised directly.” In other words, Khalilzad is saying that “by avoiding open contacts with the Taliban, India has reduced its role in international diplomatic efforts.”

Katju concurs and believes it is important for India to open talks with the Taliban. “India needs to take corrective diplomatic action even at this late stage, and even in the time of COVID-19. It must begin openly talking to the Taliban and with all political groups in the country. It must realise that its Afghan policy needs changes”, he wrote, adding “This was especially because they were informally conveying that India should not consider them as Pakistan’s puppets and also because they had gained international recognition. Contacts and discussions do not

mean acceptance of their ways or that their professions of not being Pakistan’s stooges should not have been tested.”

In other words, the Afghan dilemma has once again resurfaced for New Delhi’s strategists, albeit in a different form. Should India engage with the Taliban or face the possibility of once again being shut out from that country, and effectively abandon its interests there? Additionally, the worry today is whether Pakistan will once again become the de facto power in Afghanistan and use the country to house, train and arm anti-India irregulars? Lastly, will India lose an outpost from where it can monitor Pakistan from the West and contain its expansionist motives?

The argument some Indian strategists are making is that India stands to lose on all counts if it completely rules out the possibility of establishing communications with the Taliban. They further argue that in all probabilities the Taliban will defeat the existing Afghan regime and become the country’s rulers once Washington pulls out its military presence. By talking to the Taliban, New Delhi, they believe, would be hedging its bets and keeping its options open.

Taliban, on their own, are trying to demonstrate moral superiority over the present Afghan regime. They are also trying to portray itself as more efficient, more capable of governance and more tolerant today than it was in the past. In other words, the Taliban is claiming they are a moderate responsible force today that ought to be recognised as such and given the legitimacy it previously lacked. The Taliban is also trying to prove to the world that it is not a mere lackey to Pakistan’s military establishment and that they are capable of acting and thinking independently.

While there might be some merit in the arguments favouring talks with the Taliban, there are bigger question marks regarding the assumptions which form the basis of these views.

The first point to note is the complete capitulation of the United States government to the Taliban. It seems that Washington has accepted its defeat in the face of the incessant onslaught from Pakistan-sponsored forces and feels a deal with the Taliban would be in its best interests. Washington seems to believe that a deal with the Taliban could ensure the isolation of forces such as the al Qaida, the ISIS and perhaps even the murderous Haqqani group. The agreement clearly requires the Taliban to ensure that it would “not allow any of its members, other individuals or groups, including al-Qa’ida, to use the soil of Afghanistan to threaten the security of the United States and its allies.” The agreement

further states that the Taliban would “send a clear message that those who pose a threat to the security of the United States and its allies have no place in Afghanistan, and will instruct ... members not to cooperate with groups or individuals threatening the security of the United States and its allies.” In return, Washington has pledged to withdraw all its non-diplomatic staff and hence forward keep its hands off Afghanistan and whatever government there might be in the future. Clearly, the deal is an attempt to guarantee peace for the US and its allies and not necessarily the Afghan nation or its unfortunate people.

Intrinsic in this view is the assumption that the present regime in Kabul is incapable of survival. This is why Washington has cut a direct deal with the Taliban leaving out the present regime to make a separate deal with the Taliban if it can. The deal between the US and the Taliban is essentially an agreement for an orderly withdrawal; it is neither a peace deal nor a document aimed at ensuring the future of Afghanistan. In fact, the US-Taliban deal, known as the Doha agreement, leaves the future of the country to the fiction of an intra-Afghan agreement to be worked out somewhere in the distant or near future. Thus, the Taliban is under no obligation to stop its depredations in Afghanistan, which includes terrorist bombings, assassinations and murder of innocent Afghans. This process continues unabated.

Yet, Washington seems to assume that the Taliban will eventually capture power in Kabul and become a responsible player. The US is prepared to give it both political legitimacy as well as funds for development. To cement the deal, US President Donald Trump telephoned Taliban leader Mullah Baradar and assured him of US cooperation if he signed the deal. This is an amazing turnaround and shows how far the pendulum has swung. The US wants to cut its losses and quit, which is understandable given its abject failure to prevent Pakistan from keeping up the war of attrition through its proxy, the Taliban.

The United States is on the other side of the globe from Afghanistan and unlikely to be affected by the Taliban. Moreover, the al Qaida and other Islamist movements are much weakened today as compared to their situation twenty years ago. Wasting American lives and money in Afghanistan makes little sense. But should New Delhi go along with the US vision that the future of Afghanistan is best left to the Taliban and that Pakistan should be accepted as the regional peacemaker? There is a definite lack of congruency in Indian and American strategic thinking on Afghanistan and Pakistan. This has been an age-old problem not

just of perception but of fundamental issues of self-interests of each nation. For decades, New Delhi and Washington have diverged on Pakistan-Afghanistan and given the Doha agreement, clearly still do. India therefore will have to go its own way on Afghanistan and that would require a clear-sighted evaluation of its long-term interests.

First of all, New Delhi must be clear about what its assets in Afghanistan comprise. Are they the buildings, dams, roads and transmission lines India has put up? Are they the scanty listening posts and the odd mission? The real Indian assets in Afghanistan, it could be argued, are the friends it has built up over the years. Today, India is seen as a friendly power that genuinely wishes to help Afghans rather than meddle in their politics or economy.

In the last twenty years, an influential community of Pashtuns and Tajiks have come up in the country, who have tasted power, acquired wealth and influence. Power, economic and other equations in Afghanistan have changed since the mid-1990s when the Taliban first swept into the country. Unfortunately, this group is also fragmented and has not been able to come to terms with each other even now as the Taliban is knocking on their doors. However, this group is friendly towards India and would hate to see the Taliban squatting in Kabul. It is this wide and diversified group that Indian policies need to protect and nurture. New Delhi therefore must entertain the Taliban only when its friends want it to; not before or after. In the ultimate analysis, it is these Afghans who will have to face the Taliban and their Pakistani mentors, not Indians.

Secondly, there is no real evidence to suggest that the Taliban has indeed transformed from a rabid Islamist outfit to an enlightened modern day political entity. No matter how much they might try to portray themselves as moderate, the fact remains they are a violent Islamist group that has no hesitation in eliminating rivals by the most barbarous means possible. In other words, the Taliban are far from civilised. But they possess low cunning. During the Coronavirus pandemic, they tried to project themselves as responsible, responsive and better equipped to deal with the crisis. In late March this year, the Taliban called international health workers and some media people in Nangarhar to demonstrate how they were on their own carrying out Covid-19 testing. A Taliban health worker wearing a protective suit was shown using a thermometer gun to check Afghan villagers. The photographs and write-ups were widely circulated all over the world to show what a great job the Taliban were doing. In closer inspection of the photographs, however,

it was clear that the whole thing was a fake: the thermometer guns were props “taped together from scraps of plastic and wood” [*The New York Times*]. In another footage released to the media, the Taliban were shown conducting house-to-house testing, distributing masks and hand sanitisers. The Afghan government in contrast, was seen as doing little against the pandemic. Strategists point out that insurgent groups typically exploit state helplessness by projecting themselves as being more competent and responsive. The reality is often very different. Propaganda exercises cannot be a substitute for national programmes and action.

At least one strategic writer in India has warned of the dangers of initiating talks with the Taliban at this stage. Rajeshwari Krishnamurthy, Deputy Director, IPCS, in a July report pointed out: “Revelations contained in the May 2020 UN report on the status of the Taliban’s linkages and decision-making agency inspire no confidence. In the absence of the Taliban demonstrating tangible actions to enforce its stated intentions (in the US-Taliban agreement and elsewhere), it might not be beneficial for India to commence direct talks at this stage. Doing so would aid international legitimisation of the Taliban prematurely, which will not only undermine the Afghan government’s negotiating power during the intra-Afghan negotiations (IAN), but also contribute towards setting undesirable precedents, such as side-lining a sovereign government and giving mileage to a terrorist group.” [*India: Beyond the Binary of Whether to Talk to the Taliban, 10 Jul, 2020*]

Thirdly, and perhaps most importantly, there is no evidence to suggest that the Taliban have or will ever become independent from the Pakistani military establishment. There is no way that the Taliban would be able to operate with impunity within Pakistan, hauling large amounts of war material and men to take on Afghan government forces aided by US air and ground power. Theirs’ is a full-fledged military operation supported, sustained and guided by Pakistan’s generals in Rawalpindi. The leadership of the Taliban can be changed at will by the generals and their policies tweaked as per Rawalpindi’s dictates. It is pure fiction to suggest that the Taliban after all these years has suddenly become an independent entity and can afford to ignore Pakistan’s generals on strategic matters.

There is a reason why Pakistan’s generals have prodded the Taliban to offer India the olive branch. The consideration is tactical. Indian arms, money and diplomatic support to the present Afghan regime and other friends within that country could make a Taliban conquest more difficult. If the Taliban can take out New Delhi from the equation even

temporarily, it could achieve its objective of crushing the present Afghan regime more easily and without hindrance. The Taliban’s overtures therefore constitute a trap and not a change of heart. Ironically, Washington also wishes to see Afghanistan quickly stabilised after its departure for several strategic reasons, of which one is to keep the al Qaida, the ISIS and similar outfits out of that country. But there are other reasons as well which is beyond the scope of this discussion. This is why Washington is keen that New Delhi too does a deal with the Taliban.

New Delhi also needs to acknowledge that the world is changing and strategic equations in the region are not the same as they were twenty years ago. Washington’s thinking has long ossified with its bureaucracy, military and strategists hanging on to a worldview that no longer exists. In contrast, India needs to emerge as a principled, reliable actor in the regional stage. It must not be seen as an opportunistic power that is ready to negotiate with a terrorist entity just because it suits its interests. It must not be seen as a power that is prepared to abandon its long-term friends for transitory benefits. It must stand by those in Afghanistan who will lose a mentor once the United States exits, whether for better or for worse. That is what successful marriages are made of.

Uzbek Perspective on Afghanistan

Ambassador Abdusamat Khaydarov*

The Current Situation in Afghanistan

The signing of the agreement between the US and the Taliban in Doha on February 29, 2020 inspired hope for a solution to the long-standing Afghan conflict. This agreement was unanimously supported by the UN Security Council. In parallel, on the same day, a Joint Declaration between Afghanistan and the United States was announced in Kabul on the establishment of peace and the reduction of the existing level of international armed forces in Afghanistan, subject to compliance by the Taliban with their obligations under the agreement between the United States and the Taliban. The United States also pledged to continue supporting the Afghan government into the future.

Two and a half months later, another agreement was reached on power-sharing between the current President A. Ghani and his political rival A. Abdullah. This stopped the open confrontation between the two politicians, which had begun after the announcement of the election results on 18 February 2020. However, this does not mean that all existing problems are completely resolved. Disagreements continue between Pashtuns and non-Pashtuns. Pashtuns continue to consider themselves the dominant ethnic group and are not going to give power to non-Pashtuns. As it was noted by some representatives of national minorities, there might be a coincidence of the interests of A. Ghani and the Taliban in the event of future elections. Nevertheless, before the onset of intra-afghan negotiation, A. Ghani and A. Abdullah teams must come with agreed positions, without which negotiations will be doomed to failure.

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The Afghan people are mostly interested in the negotiation process starting as soon as possible, and the resolution of the long-standing conflict; they are, tired of bloody war. Nevertheless, judging by how events are developing in the country and the determination of the main political forces to defend their interests and positions, it is quite possible that the negotiation process itself may be delayed.

Since the signing of the US-Taliban agreement, no major Taliban attacks on international forces have been recorded. However, the Taliban continue attacks on government troops and civilians, somewhat hindering the ongoing process of exchange of prisoners of war. At the beginning of June, the government released up to 2,500 Taliban members as part of the settlement process. The Taliban, in turn, freed over 400 people.¹

At present, the team of President A. Ghani includes the former head of the Directorate of National Security Tajik A. Salekh (vice president), Hazara A. Donesh (second vice president). So far A. Ghani team controls Military, NDS, the law enforcement bodies and finances of the country. The goal of his team is to consolidate the results of the 2019 presidential election and retain the entire system of power, to reach agreements with the Taliban in order to reintegrate them into the political system on mutually acceptable terms. Critics of A. Ghani claim that his team mainly reflects the interests of the Pashtuns and a small part of ethnic minorities.

A. Abdullah's team includes: Pashtun Anwar ul-Haq Ahadi (a Pashtun), who is a former Minister of Economy in the government of Hamid Karzai and the head of the Afghan Mellyat, a Pashtun nationalistic party; leaders of Hazara community Karim Khalili and the head of Hizb-i-Wahdat Mohammad Mohakkik; the leader of the National Islamic Movement of Afghanistan, Uzbek General Abdul Rashid Dostum. In fact, the team of A. Abdullah consolidates most political forces expressing the interests of ethnic minorities and a small but important part of Pashtun society.

A. Abdullah's team aims at gaining power in the government system as soon as possible in accordance with the power – sharing deal. It will strive to maintain its position in the political system of the country even after reaching truce with the Taliban and integrating them into the political system of the country. In the run-up to talks, it appears that the two teams need to achieve a greater level of confidence in each other and a common agreed position to begin the negotiation process with the Taliban.

By mid 2020, relative political and military stability in Afghanistan was ensured mainly by the presence of US and NATO forces in Afghanistan, as well as the Afghan National Defense and Security Forces (ANDSF). As of May 2020, there were about 12,000 US troops in Afghanistan. 8,000 of these are part of the NATO-led mission in Afghanistan of 16,000 troops, known as Resolute Support Mission (RSM).²As of January 2020 the strength of the ANDSF personnel reached 281 548.³

The main opponent of the government is the Taliban, whose number of full-time militants reaches 60,000 and another 90,000 are “seasonal.”⁴The large majority the members of Taliban are still Pashtuns, although there is a growing minority of Tajiks, Uzbeks, Baluchis, and even several hundred Hazara members and fighters (including Shia’s).⁵Despite information in the press about the fragmentation of the Taliban, a recent report by the UN Taliban monitoring team noted that “the Taliban leadership managed to maintain the common unity of the group.”⁶ According to foreign experts, the Taliban are now stronger than in the recent times.⁷ The main objectives of the Taliban have been voiced repeatedly. They consist of the demands that all foreign troops be withdrawn, and the constitution must be changed and the governments based upon (their interpretation of) Sharia law. The Taliban position themselves as the main, firm followers of the traditions, religious, spiritual and cultural heritage of the people of Afghanistan and their guardians. Islam remains as a kind of spiritual environment linking the Taliban with the masses of Muslim believers and will remain as an ideological basis and political weapon of the Taliban entering the upcoming negotiations with the government of Afghanistan.

Although the Government has substantial military and technical superiority over the Taliban, according to a recent analysis approximately 30 percent of Afghanistan’s 407 districts are in government hands, the Taliban commands some 20 per cent, and the rest of the country is contested.⁸ According to the UN and others, after the signing of the US-Taliban agreement, noticeable separatist trends emerged in the ranks of the movement. Therefore, there appears to be a split within the ranks of the movement and those who disagree with the current policy of the Taliban leadership and break away from its main forces and continue fighting against the Government and foreign forces.

The fragile military and political situation is complicated by the dire current economic situation, which is exacerbated by COVID-19. As a result of the pandemic, unemployment has increased, which,

according to the Central Statistical Organization of Afghanistan, reached 24 per cent by mid-2020. 54 per cent of the country’s population remained below the poverty line,⁹ rendering them especially vulnerable to COVID-19.

Possible Scenarios in Afghanistan.

Given many uncertainties, it is extremely difficult to predict possible scenarios for the development of the situation in Afghanistan. However, two scenarios seem to be possible.

Unlikely option. Negotiations will be conducted without any significant progress and may be interrupted at some point. The reason for this scenario may be the uncompromising position of the Taliban on major issues, namely: conditions for power-sharing in the future transitional government, constitutional changes, the complete withdrawal of foreign troops, disarmament and reintegration of Taliban militants. In other words, the incompatibility of the positions of the sides and the lack of willingness to compromise can lead to the disruption of the peace process.

The government delegation might be interested in such a scenario. A quick agreement on reconciliation would mean the inevitability of reshaping the state-political system and the formation of a transitional government. In the new transitional system, many government officials may lose their positions. Given this scenario, they would be interested in disrupting or delaying the negotiation process until the next presidential election of 2024. A. Abdullah’s team might be interested in participating in the 2024 elections, in which he may win. However, this might again aggravate the confrontation between Pashtuns and non-Pashtuns.

Likely option. The negotiation process will be successful if the parties are committed to finding compromise solutions. The negotiations itself could last a considerable time and take place in several stages, and ultimately an agreement on political settlement could be signed. The agreement would reflect the common vision of the parties to power-sharing in the future inclusive interim transitional government and the ways to achieve it. In the course of the peace process the Taliban will seek speedy removal of the movement from the lists of terrorist organizations, the legalization of its activities in Afghanistan as a political party and get a significant part of the seats in the future government. The main stumbling block in the negotiation process will be identifying a compromise between the Taliban’s stated

goal of restoring traditional values through shaping of the Sharia-based Islamic government and the current system of government, combining the components of modern Afghan political culture and democratic values based on international norms. The mentioned points will complicate the course of intra-Afghan negotiations.

Most likely, the issues of demobilization and reintegration of the Taliban fighters and the return of refugees from neighboring countries could be resolved during the negotiations, and the implementation of the agreement would be entrusted to the future transitional government. However, one of the key issues – changing the constitution, by agreement of the sides, can be left at a later stage, since it may require to hold a plebiscite or other form of expression of the will of the people on this issue.

The Taliban can show great flexibility during the negotiations and might be ready to make substantial concessions on the issue regarding the form of the people's will since the signing of the agreement with the Americans on February 29, 2020 is considered their “victory”. Moreover, the Taliban leadership understands that a substantial part of the clergy and some political forces in Afghanistan are not interested in evolution towards democracy and will remain the main pillar of the Taliban aspirations to maintain control over the ideological sphere, since control over political and economic activity will be in the hands of the transitional government. The Taliban's position on the future political structure of the country, based on ideological proximity, could probably be supported by some influential parties like G. Hekmatyar's Islamic Party of Afghanistan, Islamic Revolutionary Movement Party of Afghanistan led by Alhaj Qalamuddin and other less powerful parties. However, many Afghan people are in favour of voting and democracy.

The main challenge of the current government will be preservation of democratic practices and values in the future political system achieved during the years of post-Taliban development enshrined in the constitution and continuation of this course in the future.

Uzbek Perspectives

With the election of Sh. M. Mirziyoyev in December 2016 as the President of Uzbekistan, the process of reforming of the socio-economic and political system of the country has begun which led to significant changes in the country's foreign policy. The Central Asian region was named as the main priority of the country's foreign policy

and task to shape security belt, stability and good-neighborliness was set. Afghanistan has become an integral part of the Central Asian region. Today, Tashkent considers the prospects for stable and sustainable development in Central Asia in an inextricable connection with the achievement of peace in neighboring Afghanistan and its restoration. Understanding the need for change in the region and the search for measures that can help to resolve the Afghan conflict is at the heart of the current approaches of the new leadership of the Republic of Uzbekistan in the Afghan vector of the foreign policy of Tashkent.

Thanks to this approach, in a short period of time Tashkent managed to remove many unresolved problems and significantly reduce tension in its relations with neighbors in the region and raise the need to create a new atmosphere of cooperation in the region. Over the same period, it was possible to significantly raise the level of relations with the government of Afghanistan. Already in September 2017, Sh.M. Mirziyoyev stated that Uzbekistan makes and will continue to make a feasible contribution to the economic reconstruction of Afghanistan, development of its transport and energy infrastructure, training of national personnel.¹⁰

In December 2017 the first visit of the President of Afghanistan Ashraf Ghani to Uzbekistan took place for the first time in 16 years, as a result of which 20 bilateral agreements were concluded between the two countries. The agreements cover cooperation in various fields, including security, economy, transport, health and education. During the visit, it was also decided to create a joint commission on regional security issues. An important result of the negotiations was the agreement reached between Tashkent and Kabul on the opening of Afghan consulate in the city of Termez. The parties intend to bring trade to \$ 1.5 billion compared to about 600 million (2016).¹¹

In March 2018, at the Tashkent Conference on Afghanistan, President of the Republic of Uzbekistan Sh.M. Mirziyoyev stated the need to start considering Afghanistan as not a country from the territory of which is emanating the threat to peace and stability. Afghanistan is our friendly partner and neighbor.¹² In fact, in the foreign policy of the Republic of Uzbekistan there has been a transition from the image of the source of threats, which the Afghan vector has dominated for a long time in the country's foreign policy, to the image of a friendly partner. The Declaration adopted at the conference became a kind of “road map” for intra-national reconciliation, countering international

terrorism and drug trafficking, as well as regional economic cooperation.¹³

Tashkent's new approach to resolving the Afghan conflict was an appeal to the international community to support the launch of a negotiation process involving all intra-Afghan political forces, including the Taliban. This new position of Uzbekistan was fully supported by the Afghan government. A few months later, contacts and negotiations with Taliban representatives in Tashkent and Doha showed that the change in the perception of Afghanistan in Uzbekistan's foreign policy allowed Tashkent to establish trusting relations with both the Afghan government and the Taliban, whom Uzbekistan considers an integral part of Afghan society. Moreover, it was officially stated: "The Taliban should be involved in the political process as a legitimate force."¹⁴

Bilateral relations are currently on the rise, despite the continuing instability in Afghanistan. In addition to the large-scale expansion of trade cooperation with its southern neighbor over the past four years, Uzbekistan is considering the construction of a number of large-scale transport and communication projects, including the construction of the Mazar-i-Sharif-Herat, Mazar-i-Sharif-Kabul-Peshawar railway. The implementation of these transport corridors will allow the Central Asia states and Afghanistan to reach the ports of Chabahar and Bender Abbas (Iran) and Gwadar (Pakistan) by shortest and most economical way. Access to Iranian ports will also allow Central Asian countries to join the Indian led North-South project.

Along with this, it is planned to build a new Surkhan-Puli-Khumri power line, which will allow Afghanistan to be connected to the unified energy ring of Central Asia. Since 2018, the Educational Center for the Training of National Personnel for Afghanistan has been operating in Uzbek city of Termez.

Stabilization of the situation in Afghanistan will allow to start implementation of other regional projects like TAPI, CACA 1000, in which Turkmenistan, Kyrgyzstan and Tajikistan are interested. The projects considered for implementation in Afghanistan, if peace is restored, could create thousands job opportunities for those who are ready to lay down their arms and return to civilian life.

Stable and integrated into regional economic cooperation, Afghanistan will open the shortest access to maritime communications in southern direction to Central Asia states. It will also allow diversification in transport corridors and thereby open up vast markets

of South and Southeast Asia for countries of the region to export products.

At the same time, it should be noted that security issues continue to be among the priorities of Uzbekistan's foreign policy, confirmed by the meetings of the Chiefs of staff of the armed forces of the regional states held on February 12, 2018 in Kabul, as well as on February 21, 2019 in Tashkent, where they also discussed various aspects of regional and international security. Peace restoration in Afghanistan will allow Uzbekistan and other Central Asian states to establish effective cooperation with the future government of Afghanistan in combating international terrorism. Based on the above factors, Uzbekistan is interested in shaping a strong and inclusive national government that will enjoy support and confidence of all ethnic groups and political forces in Afghanistan.

Observations

In general, the domestic political situation of Afghanistan, despite agreements having been reached, remains fragile. The current relative military-political stability in Afghanistan continues to be ensured by the presence of US and NATO troops in Afghanistan, as well as ANDSF. The country is undergoing a slow renewal process, which will be painful in view of the commitment of the overwhelming majority of the country's population to traditions and religious canons.

The agreement signed in Doha on February 29, 2020 between the United States and the Taliban opens the way to a direct inter-Afghan negotiation process, which might be protracted, but could lead to a settlement of the long-standing Afghan conflict. Despite the various possible scenarios of the inter-Afghan peace process, its final outcome will be the signing of an agreement on the complete cessation of hostilities and declaration of national reconciliation, followed by the formation of an inclusive transitional government.

The world's leading powers and regional countries are making great effort to support the people of Afghanistan and launch the intra-Afghan peace process. In the context of the development of relations between the countries of Central Asia and Afghanistan, its northern neighbor, the Republic of Uzbekistan, is playing an active role.

Recent substantial changes in Uzbekistan's relations with Afghanistan are the logical result of the new regional policy, which considers Central Asia, including Afghanistan, as one of the main priorities of the republic's foreign policy. Relations between

Uzbekistan and Afghanistan are beginning to expand significantly and enter a new reality, which promises to provide a solid impetus for the sustainable development of all of Central Asian countries and significantly reduce the conflict potential of the region.

Uzbekistan considers it extremely important to establish processes of cooperation between the States of Central Asia and Afghanistan, which will undoubtedly contribute to the stabilization of the situation both in Afghanistan itself and in the Central Asian region.

Today Tashkent views Afghanistan as an important partner, not just a source of security threats. In Uzbekistan's foreign policy and, in particular in its Afghan vector, the values of cooperation have been given priority over issues of distancing and isolation, which for many years hindered the full-fledged development of the country's economy, its foreign economic and diplomatic relations with the countries of the region and beyond.

Changing the paradigm of Uzbekistan's foreign policy towards Afghanistan has allowed Tashkent to establish constructive relations with both the current government of Afghanistan and the Taliban. Uzbekistan, at one stage of the intra-Afghan peace process, in the event of a request from the conflicting parties, might become another negotiating platform for Afghanistan.

In fact, over the past four years, Uzbekistan has formed a new atmosphere of cooperation and a new perception of the situation in Central Asia and Afghanistan as a single space of cooperation as a result of Tashkent's preventive diplomacy. Efforts to significantly expand trade and economic cooperation with Afghanistan undertaken recently can be named the economic component of Uzbekistan's preventive diplomacy, aimed at involving the neighboring country into the multifaceted relations of the region.

Uzbekistan's position regarding the settlement of regional security issues and the Afghan conflict through shaping a broad multifaceted cooperation between the countries of the region, including implementation of various trade, economic, investment, transport and humanitarian projects, reflects the new geopolitical reality in Central Asia, emerging before our eyes. Hence one of the main conclusions follows from this - Central Asia and Afghanistan should not be a field where there are clashes between the geopolitical interests of the great powers and regional players. The region should become a space of cooperation and interaction.

At the same time, two main issues – Islam and the ethnic problem will remain central on the agenda of the future inclusive government, and stability and further progress of Afghanistan will depend on how these issues meet the interests of a multi-ethnic and multi-confessional Afghan society.

Disclaimer: The views and opinions expressed in this article are those of the author and do not necessarily reflect the official policy or position of the Republic of Uzbekistan

Notes

- ¹ Utalibovpoyavilas' iranskaya "pyatayakolonna". Gruppaboevikovushla v raskoliz-zasdelki s SShA <https://centrasia.org/news.php?st=1591849680>
- ² Afghanistan: Background and U.S. Policy: In Brief Updated May 1, 2020. <https://fas.org/spp/crs/row/R45122.pdf>
- ³ SIGAR, Quarterly Report to the United States Congress, April 30, 2020. <https://www.sigar.mil/pdf/quarterlyreports/2020-04-30qr.pdf>
- ⁴ Afghanistan: Background and U.S. Policy: In Brief Updated May 1, 2020. <https://fas.org/spp/crs/row/R45122.pdf> Antonio Giustozzi, Afghanistan: Taliban's organization and structure, LandInfo, the Norwegian Country of Origin Information Centre, August 23, 2017, pp. 12–13. https://landinfo.no/asset/3589/1/3589_1.pdf
- ⁵ Antonio Giustozzi, Afghanistan: Taliban's organization and structure, LandInfo, the Norwegian Country of Origin Information Centre, August 23, 2017, pp. 12–13. https://landinfo.no/asset/3589/1/3589_1.pdf
- ⁶ Tenth report of the Analytical Support and Sanctions Monitoring Team submitted pursuant to resolution 2255 (2015) concerning the Taliban and other associated individuals and entities constituting a threat to the peace, stability and security of Afghanistan. https://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/s_2019_481.pdf
- ⁷ The Taliban in Afghanistan. <https://www.cfr.org/backgrounder/taliban-afghanistan>
- ⁸ The Taliban, The Government, And Islamic State: Who Controls What In Afghanistan? <https://www.rferl.org/a/taliban-government-islamic-state-who-controls-what-in-afghanistan-/30644646.html>⁹<https://tolonews.com/business/54-percent-afghans-live-below-poverty-line-survey>
- ¹⁰ <https://prezident.uz/en/lists/view/1063>
- ¹¹ <http://afghanistan.ru/doc/117101.html>
- ¹² Vystuplenie Prezidenta Respubliki Uzbekistan SHavkata Mirziyoeva na mezhdunarodnoj konferencii po Afganistanu: «Mirnyj process, sotrudnichestvo v sfere bezopasnosti i regional'noe

vzaimodejstvie.» <https://prezident.uz/ru/lists/view/160>¹³StrategicheskoevidenieprezidentaSHavkataMirziyoevavoprosovob especheniyaregional'nojbezopasnostiresheniyaafganskojproblemy. <https://mfa.uz/ru/press/news/2020/02/23576/>

¹⁴Specpredstavitel' prezidentaUzbekistanapoAfganistanu — o roliTashkenta, talibahiindijskominterese. <http://berlek-nkp.com/analytics/7266-specpredstavitel-prezidenta-uzbekistana-po-afganistanu-o-rolitashkentalibah-i-indiyskom-interese.html>

The Democratic Dilemma: Conducting Elections in Covid-19 Times

Ujjwal Kumar Singh*

As per the data collected by the International Institute for Democracy and Electoral Assistance (International IDEA) for elections held or deferred at various levels in countries across the world for the pandemic period between 21 February and 25 August 2020, out of the 70 countries and territories that decided to postpone national and sub-national elections due to COVID-19, there were 33 cases of postponement of *national* elections and referendums. On the other hand, 55 countries and territories held national or sub-national elections during the pandemic, out of which 37 countries held national elections or referendums. Of these were 20 countries and territories that decided to hold elections after having deferred them earlier.¹ Among the countries that held a national election was South Korea. The election was held on 15 April 2020 under 'strict guidelines' and was described by S. Y. Quraishi as 'near perfect', with the highest voter turnout of 66.2% in 28 years.² The total number of confirmed COVID-19 cases in South Korea according to the official South Korean government website on 31st August 2020, were 19947, with 324 deaths.³

On 5 August 2020, parliamentary elections were held in Sri Lanka after a delay of almost four months due to the Covid-19 pandemic. The guidelines issued by the Election Commission of Sri Lanka on 2 June 2020 were notified by the Sri Lankan government on 17 July 2020 to give them the force of law. These guidelines laid down the protocols for the election campaign and the precautions to be taken on election-day in the polling booth. The Election Commission of Sri Lanka had earlier expressed that it would be 'extremely difficult' to

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administer the polls during a pandemic, since political leaders were ‘defying safety measures’. In the two page guidelines, the cap on the number of people who could attend a rally was placed at 300, unless a political party leader was at the rally, in which case the cap could be enhanced to 500 people. At the time of the notification, the Johns Hopkins university data placed the number of corona virus cases in Sri Lanka at 2,697 with 11 deaths.⁴ The opposition in Sri Lanka wanted the polls to be deferred. The election saw 71 percent voter turnout, 6 percent lower than the general election held in 2015 and an overwhelming mandate for Mahinda Rajapaksa’s Sri Lanka Podujana Peramuna (SLPP).⁵

As India prepares to hold state assembly election in Bihar, which has a population of 9.9 Crores, almost double the population of South Korea, with the number of confirmed COVID-19 cases at 1,35,013 with 688 deaths,⁶ the Election Commission of India (ECI) confronts the dilemma of holding a democratic election under conditions of a ‘public health emergency’. At a fundamental level the problem is one where the ECI has to ensure ‘free and fair’ elections in a context where a ‘health emergency’ necessitates exceptional regulation of elections. The normative principles of fairness of elections and the assurance of its deliberative content were made compatible with legal exceptionalism in election time which emerged from Article 324 and Article 329 of the Constitution of India. Through a series of judicial interpretations, Article 324 has come to be construed as a ‘reservoir of powers’, giving the ECI the authority to exercise its discretionary authority over all matters concerning elections, unless they were explicitly covered by a law of Parliament. Article 329 precludes judicial intervention until the electoral process is over. As the following sections will argue, the conduct of elections in a pandemic presents extraordinary conditions in which the constitutional authority of the ECI may become subject to the directives of the Ministry of Home Affairs (MHA), which exercises overriding powers of policing under the statutory provisions of the two laws which have been invoked to address the conditions of emergency arising out of the Covid-19 pandemic – the Epidemic Diseases Act 1897 and the Disaster Management Act 2005. The electoral legal exceptionalism which empowers the ECI may become constrained by another legal order of exception, in which the deliberative dimensions of election may suffer.

Electoral Legal Exceptionalism and the Democratic Dilemma

In the literature on electoral governance procedural certainty is considered important to ensure the democratic uncertainty of electoral outcome. Mozaffar and Schedler (2002) consider the principle of procedural certainty an essential guiding principle of electoral governance in societies which are ‘democratising’, but equally valid for long sustaining democracies in order to make elections ‘credible’. Procedural certainty, by itself, would remain inadequate for assuring democratic uncertainty, unless the procedures conform to the standards of electoral integrity. The literature on electoral integrity proposes that all Electoral Management Bodies (EMBs), responsible for the conduct of elections, must aim to ensure that the rules of conduct of elections satisfy the standards of independence, impartiality and fairness, integrity and honesty, transparency and openness. All of these build trust and confidence in the electoral process, legitimacy for public and political institutions, and satisfaction with the performance of democracy.⁷

Electoral governance is also associated with the substantive dimensions of democracy, especially the modes through which the conduct of elections can ensure the unfettered exercise of popular sovereignty. It is for these reasons that ‘election time’ is seen as having distinct ‘temporal properties’ which makes it ‘discontinuous’ from ordinary process of politics. The three temporal properties of elections – *periodicity*, that is, the property of elections taking place at intervals; *simultaneity*, that is citizens voting on the same day; and *finality*, that is, the irrevocability of electoral outcome till the next election – are important values that any democratic process should promote to ensure the substitution of past with present majorities. Other democratic values such as fairness and civic engagement are also strengthened ‘to the extent that the electoral process realizes these temporal properties’ (Thompson 2004, p.51). Election time is also seen as ‘special time’ characterised by the *reversal* in the normal/ordinary working of power (Gilmartin 2009, p. 248), to provide the conditions for an unfettered exercise of popular sovereignty, expressed through individual and collective acts of voting. Special election time generates ‘an electoral morality’ that transcended ‘everyday politics’ (Gilmartin 2009, pp. 252–53). These articulations of ‘election time’ focus on the normative frameworks of democracy, which are however dependent on the procedural frameworks of electoral governance, in particular the ‘legal doctrine of electoral exceptionalism’, which proposes that ‘the electoral process may be subjected to more stringent regulation than ordinary

politics' (Thompson 2004). From the perspective of those who administer the institutional apparatus of electoral governance, elections are extraordinary times requiring efficient 'rule-implementation', even as electoral legal exceptionalism protects the autonomy of the electoral domain by giving pre-eminence to the bureaucratic apparatus of the state over the political.⁸

The conduct of election in the time of pandemic presents a peculiar dilemma for the ECI which is expected to install procedures which would ensure fair competition among political parties and uncoerced and informed exercise of franchise by the voters, under conditions of extreme regulation. While the ECI has deferred elections in the past when conditions were not conducive to the holding of free and fair elections, and elections were suspended under the national emergency, the present context is unprecedented. Yet, the fact that countries across the world, including Thailand, South Korea and Sri Lanka have held elections successfully, and the United States of America is going ahead with its Presidential elections as scheduled (November 3), seem to indicate that governments have decided that one kind of emergency which has necessitated the suspension of 'normal' life, cannot become the condition for the institution of another kind of 'emergency' which calls for the suspension of political processes of democracy. As former ECI Quraishi has pointed out, the Bihar election is just a beginning. Three crucial state Assembly elections in West Bengal, Assam, Kerala, Tamil Nadu and Puducherry are scheduled for the summer of 2021. Moreover, the ECI has the constitutional responsibility to hold election to the legislative assembly of a state within six months of the end of the term of the previous assembly, unless there is a national emergency, in which case the election can be deferred for a year and a half. Such an emergency can be declared only under explicit conditions of threat to national security and sovereignty. Yet, another option is to defer the assembly election and bring it under the Centre's rule provided for under Article 356(1) of the Constitution, a much maligned option which is not considered conducive to federalism and constitutional democracy.

The Pandemic Effect: Public Health and Electoral Governance

In June 2020, the ECI conducted elections for nineteen Rajya Sabha seats across eight states, making it the first elections to be held in the country during the pandemic.⁹ These elections were earlier scheduled on 26 March and were deferred following the announcement of a nation-

wide lockdown by the Government of India and the state governments. The ECI invoked its powers under the provisions of Section 153 of the Representation of the People Act, which authorised the ECI to make modification to an election notification to extend the process of completion of an election if it was satisfied that there were 'reasons sufficient' to do so - in this case, 'the prevailing unforeseen situation of public health emergency', and the national lockdown served as 'sufficient' reasons.¹⁰ When elections were finally held on 19 June 2020, the ECI developed Standard Operating Procedures (SOPs) with the help of health officials to ensure a secure environment for the MLAs to vote.¹¹

Speaking to media persons in the context of the postponement of the Rajya Sabha elections, leaders of both BJP and the Congress agreed that the nature of elections would change enormously in the wake of the pandemic. The pandemic-effect would be seen in both aspects of election – the conduct of elections and the election campaign. Ram Madhav, the BJP general secretary believed that 'big rallies of the past' would give way to 'digital campaigning, and micro man-to-man marking', alongside the 'return of the handbills and pamphlets'.¹² Manish Tiwari from the Congress agreed that campaigns would take the digital route. The administration of elections was to him a bigger challenge.¹³ The ECI sent a letter to all national and recognized political parties on 17 July 2020 to elicit suggestions from them to help it frame the guidelines. The ECI asked political parties to keep in mind various directives issued by the central government under DMA 2005 pertaining to compulsory wearing of masks and social distancing, and restrictions of large public gatherings.¹⁴ On 21 August the ECI issued detailed guidelines covering all aspects of nomination, polling, counting, and campaigning during an election in Covid-19 times.¹⁵ These guidelines were to serve as the basis for 'comprehensive plans' to be prepared at the state and local levels by electoral officers 'taking local conditions into account' in consultation with 'nodal health officers at AC, District and State levels'.¹⁶

In the meantime in a series of letters to Chief Electoral Officers of the states, the ECI sent instructions regarding the terms of 'employment' of personnel on election duty during Covid-19. All personnel of the Central and State Armed Police Force on election duty during covid-19 would be entitled to special quarantine facilities, tie ups with hospitals and cashless treatment if they fell sick in the course of election duty.¹⁷ In another letter to the chief secretaries and chief electoral officers of

state, on 22 July 2020, the ECI provided that the BEL/ECIL engineers engaged in EVM Commissioning, poll day and counting day duty would be treated as polling personnel on 'election duty'. They would, as such, be entitled to cashless treatment and ex-gratia compensation.¹⁸ An ex-gratia compensation of 30 Lakhs was to be given to all personnel including CAPF personnel and BEL and ECIL engineers on election duty, in case of death due to Covid-19 'during the process of election'. Death due to Covid-19 was added to other existing 'unfortunate' causes of death while on election duty including death caused by 'violent acts' by 'extremists' or 'anti-social elements' such as 'bomb blasts, road mines, armed attacks'.¹⁹

In its guidelines for holding elections issued on 21 August 2020, the ECI referred to the directives issued by the MHA on 29 July 2020 and the SOP on 'disinfection, sanitization, and prevention for containing COVID-19' issued by the Ministry of Health and Family Welfare (MoHFW). The conduct of election during COVID was to be guided by the frameworks of prevention and containment as laid down by the MHA and MoHFW. Accordingly, the ECI focused on constraining the number of people that could 'potentially' congregate during the electoral process. These included the filing of nomination by candidates which was turned into 'events' by political leaders, in a competitive display of strength through the presence of huge crowds of supporters. The ECI guidelines reduced the number of persons and vehicles that could accompany the candidate filing nomination papers, and gave an option for the entire process to be completed online. The number of persons 'for door to door campaign' was limited to five. The ECI permitted 'public meeting' and 'road shows' 'with suitable instructions subject to containment instructions issued by the MHA/State.'²⁰ The ECI suggested 'breaking' the convoy of vehicles after every five vehicles instead of the earlier ten, and increasing the interval between vehicles to 'half an hour' – reducing it from the earlier stipulated 100 meter gap. Election meetings were to be held but 'subject to adherence' to Covid-19 guidelines only in 'dedicated grounds' identified by the District Election Officer (DEO), with 'markers' to ensure social distancing. The DEO and Superintendent of Police were to ensure that the number of persons attending the meeting did not 'exceed the limit prescribed by the State Disaster Management Authority for public gatherings'.

In its detailed guideline document, the ECI gives broad direction on how 'social distancing' norms must be complied with through the deployment of more vehicles for the movement of polling and security

personnel, requisition of large halls for training polling personnel (which could alternatively be done through the online mode), for randomization of EVMs at all stages, the preparation of election material and counting. Thermal scanning throughout the poll process, availability of face masks, sanitisers, soap and water in sufficient quantity, disposable gloves for those handling the EVMs and VVPATS as well as for the voters, and the deployment of sufficient numbers of poll personnel with adequate numbers in reserve should those on duty started showing Covid symptoms was to be ensured. The number of electors for each booth was reduced to 1000 from 1500 necessitating the installation of more booths. A Nodal Health Officer, at the state, district and constituency level would oversee COVID-19 related arrangements and the CEOs of the states and union territories were to make comprehensive plans for their states in consultation with the Nodal Officer.

The 'last hour' of voting, which under normal circumstances, is often stretched to accommodate those who have not voted, and would potentially be a period of crowded voting, was set aside by the ECI to accommodate those who showed Covid symptoms at the time of entering the booth or were in home quarantine. Separate guidelines for containment zones are to be framed later. In addition, the ECI extended the facility of postal ballots to persons with disabilities, voters above the age of 80 years, those notified in essential services and those who were COVID-19 positive and in home or institutional quarantine.

Significantly, non-compliance of ECI's guidelines, had been made punishable under Sections 51 to 60 of the Disaster Management Act 2005, and other legal provisions applicable to the offence specified in Order No. 40-3/2020-DM-I(A) dated 29th July, 2020 of Ministry of Home Affairs.²¹ Sections 51 to 60 of the DMA 2005 comprise the chapter on 'Offences and Penalties' upon violation of DMA and specify a fine and imprisonment up to a period of one year for anyone not complying with provisions of the Act or obstructed an officer implementing it.

It is significant that the suggestions for change in rules pertaining to voting through postal ballot, for those above the age of 65, and those infected by Corona virus, which had been notified earlier on 19 June 2020 by the ECI through changes in the Conduct of Election Rules attracted criticism from political parties in opposition. The Trinamool Congress (TMC) considered the proposed change 'arbitrary, malafide and unconstitutional' and 'violation of the Right to Secrecy of the Vote, Right to Free and Fair Elections and Right to Health of the Citizens of

India'. It pointed at the anomalous situation where party leaders above 65, including the Prime Minister and several Chief Ministers could campaign but would not be allowed to vote in a polling booth'.²² The CPI was apprehensive that postal ballots would lead to 'malpractice and foul play' by political parties 'in power and having resources'.²³ At an all party meeting called by the CEO of Bihar, the CPI opposed 'virtual rallies' as a mode of campaigning, which would be 'extremely expensive' and 'deprive a level playing field to political parties'.²⁴

The ECI's guidelines do not mention digital campaigns, which is not surprising since they pertain to the challenges of holding an election by minimising physical contact. It may be noted that the ECI persuaded social media platforms to put in place a Voluntary Code of Ethics (VCE), which has been in effect since 20 March 2019. Developed by the Internet & Mobile Association of India (IAMAI) and social media platforms such as Facebook, Whatsapp, Twitter, Google, Sharechat and TikTok, the signatories to the VCE have agreed to 'cooperate' with the ECI in the conduct of free and fair elections, and 'observe' the VCE during all elections 'subject to the Election Commission of India being the nodal office'.²⁵ Unlike the Model Code of Conduct (MCC), which had its origins in a voluntary agreement by political parties, but evolved into an instrument of supplementary legality wielded by the ECI, the VCE remains in the domain of ethical compliance by the signatories.

Conclusion

The administration of election in compliance with the preventive and containment frameworks of Covid-19 pandemic is a challenge that all election management bodies have to address. After an initial deferment, elections were held in Mizoram for 550 Village Councils and 59 Local Councils on 27 August by the Mizoram State Election Commission following 'social distancing'. There was 75.83 percent poll turnout in the village council polls, and 60.34 in the Local Council polls.²⁶ The term of the village council had expired in May and was extended till September because of the pandemic. When the elections were held, Mizoram's Covid-19 tally was 974 confirmed cases. Of the total positive cases, 40 per cent belong to Central Para-Military Forces and the National Disaster Response Force (NDRF).²⁷ The scale of the Bihar state assembly election would be much higher, and the challenges of maintaining 'distance' would accentuate correspondingly.

It is important for us to understand that holding elections amidst a pandemic has 'democracy costs'. It is important for any democracy to

continue rather than defer the electoral process to enable present 'majorities' to replace the dead hand of past majorities. Elections are important for the renewal of the democratic process to prevent sliding into decay at a time when institutions are working at a bare minimum and need deliberative spaces for replenishment. Yet, we must, ask ourselves another question, which concerns a principle of electoral governance – that of procedural certainties – but also its objective of unleashing democratic churning where the here and now of elections is transcended to look towards the future of democracy. Conducting elections in Covid times has shifted the priority of electoral governance to holding an 'efficient' election in which all 'containment' measures are put in place. This is not a mean task and requires enormous amount of coordination. The challenge, however, is how the normative dimension of an election can also be simultaneously achieved and not made secondary to efficient administration. The debate on virtual campaigns has drawn our attention to the challenge of regulating this space in a way that a fair field is available to all parties. The MCC needs to be applied assiduously and social media platforms held accountable to their commitment to the ECI. The 'digital divide' in Bihar makes it unlikely that the digital world will be accessible to most people. S.Y. Quraishi has pointed out that internet penetration in Bihar is only 37 percent and the usage of smart phones is only 27 percent.²⁸ Even if door-to-door campaign under conditions of physical distance is robust enough, the possibility of voters keeping away from the polling stations will be there. In an interview the Deputy Chief Minister of Bihar opined that even though 'panic' over the pandemic had reduced, and the polls are still two months away, there could be a dip in turnout of urban voters.²⁹ It will be interesting to see how political parties conduct themselves in 'exceptional' conditions and what impact the constraints on campaign would have on election expenditure of parties. It may be worthwhile to see also how the 'positive' impact of holding elections in exceptional times lingers to make elections less carnivalesque and more substantive.

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Questing Humanity in the World of Artificial Intelligence: Praxis and Practices

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Abstract

Artificial Intelligence (AI) has a splendid growth and has far-reaching implications in economic, social, political, judicial, administrative, health, education, information and transportation, space research and defence sectors. Spectacular progress in AI has raised high hopes to tackle the different issues of humanity. Advanced AI capabilities, no doubt, have informed lots of opportunities into the life of the people but at the same time it raises some fundamental questions like the place, role and position of human beings in the realm of the AI system, especially in its equal human or super human stage technically known as Artificial General Intelligence (AGI) and Artificial Super Intelligence (ASI). Humanity looking towards AI with curiosity and doubt, fear and favour, anticipation and trepidation as it is unpredictable and is required to be treated with prudence. In this backdrop the article scans the challenges of AI system, its impact on human beings and the issues of governance in the realm of AI. This article is mainly based on analytical study as also on qualitative matrix.

1. Introduction

Artificial Intelligence (AI) is a buzzword of twenty-first century. Though the root of the concept is actually linked with the development of computer science but it has received the extra attention as it is capable of thinking and working in a rational way like human beings. Though

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there is a dispute whether the AI is the brainchild of technocrats or of the scientists. AI acquires a vast field, not easy to define but can be understood and realised from its many attributes like machine learning, neural network, natural language and speech processing, robotics etc. AI's all embracing reach is not merely confined to the computer science rather it attracts other fields like psychology, neuroscience, philosophy, linguistics, cognitive science, philosophy, neuroscience, probability and logic.¹ Mervin Minsky one of the architects of the realm of AI said AI is "the science of making machine do things that would require intelligence if done by man."² Actually AI is a process to vest the machine with the broad cognitive faculty so that machine can work and take decisions on its own without the help or any kind of interferences of human being. The idea behind such empowerment of machine is that even in complex and difficult situations a machine by applying its artificial intelligence can take accurate step and flawless decision which may not be possible humanly. Ryan Calo in his article Artificial Intelligence Policy: A Primer and Roadmap, 51 U.C. Davis Rev. 399, 404 (2017) termed AI as a set of techniques aimed at approximating some aspect of human or animal cognition using machines.³ Machines are vested with such programming or algorithms so that it can use its own cognitive skill in natural language processing, speech understanding, recognition of images and objects of the physical world, game playing, machine learning, automatic programming, sophisticated education for the users, endeavouring intelligent problem solving and reasoning which is also known as I.K.B.S. i.e. Intelligent Knowledge Based Systems; preparation of Robotics, brain mapping to read the human behaviour generally known as Computational Metaphor etc.⁴

2. Artificial Intelligence – Triumph or Tribulation

AI has progressed dramatically in recent years and we find the use of AI almost in every sphere of our life, like machine translations, health care, financial sectors, education systems, defence, judicial sector, space technology, administration, communication system etc. We may observe the application of AI in our daily life ranging from easier tasks to complicated activities. Generally, we witness the impact of AI through creation of useful computer programming which not only performs the task of complex computation rather reads and solves the situations intelligently. Earlier we had the idea about AI was that the machines can function according to the programming installed within it, merely a means to mimic the mind of the makers. But nowadays AI has advanced

in such a way whereby the machine is not only using its cognitive power rather using the cognitive faculty with consciousness. An AI enabled machine can take decisions itself even with more precision than human mind. Experts are constantly trying to uplift the system of AI from the stage of machine learning system to deep machine learning method to make the machine substitute of human being! Here, the exclamatory mark is given consciously which raises many questions. Is it possible to substitute the human being with the machine? Is smart human being trying to extinct its own identity by evolving smarter machines? The whole article is a quest for the answer of the above questions but before that it is needed to understand the gradual development of the system of AI. So far, machine learning system is concerned, it works by analysing the data provided to it. It works through the fixed algorithm framed by the programmer and requires the human assistance to reach desired results sometimes. Basically, it can't work beyond the algorithm inserted within it. As for example, if a machine is empowered with an algorithm to flashlight hearing the word 'dark' it will flash the light only when it will hear the word 'dark' and if it will hear that 'it is night and there is no light' or otherwise it will not flash the light because it is not lashed with the power of consciousness and to read the situation properly it requires the human intervention and interaction. On the other hand deep machine learning method enabled the machine to take decision on its own without having any assistance from human mind. It functions by layered structure of algorithms known as artificial neural network which works on the basis of trial and error method. It classifies the data through a logic system inherited from its own neural network so that it can take independent decisions without any assistance from human mind. The problem sighted above can be resolved by a machine if it is empowered by neural network. We find the successful use of deep learning method of machine in automating car driving system. Here, it is pertinent to mention that AI is generally structured in three phases namely Artificial Narrow Intelligence (ANI), Artificial General Intelligence (AGI) and Artificial Super Intelligence (ASI). Generally in the matter of computation, selection of desired information from huge data, weather forecasting or playing chess etc. ANI process is applied. It is called narrow because it performs single task in real time applying the algorithm programmed to read the specific and specified data. As it is not vested with the neural cognitive power it cannot take the decisions on its own. Decisions are always made by virtue of specific programming installed in the machine

in the ANI process. On the other hand, the AGI vests the machines with the power of innovation, creation and imagination. It takes decisions by applying its own neural network which vests it with cognitive faculty similar to human mind. The machines with AGI can resolve a matter with reasoning and logic and can take the right decision in an uncertain or doubtful situation without the aid of human intellect. On the other hand, it is claimed that machines with ASI scheme will be many times more powerful than the human intellect and will be capable of taking the decisions consciously applying its own wisdom and cognitive faculty and even on those matters where it is unimaginable for the human being to reach, speculate or to think for. The speculations for the extinction of human being and the apprehension regarding threat to very existence of human life hovers at this level of the development of AI is what the world is assessing.

Advanced AI capabilities, no doubt, have informed lots of opportunities into the life of the people but at the same time it raises some fundamental questions like the place, role and position of human being in the era of superhuman performance of the AI system. From Frankenstein's Monster, Hoffmann's automata to Skynet and Ex Machina fiction writers have warned that destruction may be unleashed on humanity due to the autonomy the modern humans are conferring on the technological creations.⁵ Though the core philosophy of science and fiction are distinct as the former is evolved from the pragmatic attitude and the latter is mainly based on imagination but beyond this there is no dearth of examples whereby both have exchanged and benefited by the ideas and predictions of each other. Keeping the above equation in mind, we should not ignore the apprehensions raised in this regard. Allan Dafoe, one of the leading researchers on AI and AI Programme opined in his interview with the Journal of International Affairs (JIA) that while advance stage of AI imparts great opportunities to humanity but it will also invite the distinct risks with it in its superhuman state or in the state of human equivalent capabilities.⁶ According to Allan, even near human capabilities of AI would do a range of tasks devoid of the role of human being totally and which will lead to rampant labour displacement, inequality, infringement of privacy, risks of nuclear instability, widespread problems related to global economy, global armament and risk of increase of conflicts.⁷

Centre for European Policy Studies (CEPS) Task Force in its Report on Artificial intelligence – Ethics, Governance and Policy Challenges prepared in February, 2019 in Brussels termed AI as empowering and

speculated that it may lead us towards sustainable and desirable paths.⁸ CEPS conceptualised the above perception on AI considering its ability of optimization, recommendation and prediction.⁹ No Doubt AI has the potentiality to transform the economy, society and the military¹⁰ but at the same time we cannot ignore the threat and challenges posed by the AI to humanity as well as to the whole system of governance. But AI is like a double edged sword which is required to be handled with great care with prudence and caution. We can see positive and almost revolutionary impact of AI in education system, health, banking, and social, music and amusements, defence sectors, legal matters etc. and certainly we are benefitting ourselves with it, but before lifting the lid of the bottle we must prepare ourselves to catch the genie and to place it inside the bottle again, if required, otherwise surely, the demon will gobble us. Here, it is worthwhile to mention one of the observations from the report of the CEPS Task Force which states that AI itself is not evil per se, but humans can use AI both for benevolent and malevolent goals and that is why AI must be used with precautions.¹¹ AI of course is not evil per se but we, the human beings should not forget that we should develop machines for our own benefit and not to control ourselves in such manner whereby we lose our freedom, entity and finally the existence. Here it is pertinent to mention about 'Three Laws of Robotics' formulated by the author Asimov in his meeting with John W. Campbell, the editor of Astounding Science Fiction in December, 1940 which are as follows:¹²

- I. A robot should not inflict harm upon any human being neither the human being be allowed to harm it during its inaction.
- II. A robot should comply with the orders of human beings provided it should not be in contrary to the First Law.
- III. A robot must protect its own existence provided it should be in conformity with Law I and Law II.

However, the relevance and importance of the above laws are widely debated. Here, it is worthwhile to mention the criticism of ElizerYudkowsky who said that there is no motivation factor before the robots to follow the laws formulated by Asimov which imposes self control on robots and, therefore, the robots will always take the advantage of any lacuna of the programming to act as per their free will.¹³ Here the contention of the author of this article is not to discuss about the relevance or aptness of the thinking of Asimov or his fellow critics but the only intention is to advocate for installation or incorporation of a protective shield to save the mankind from the latest

developments of AI system. It is true that we cannot restrain the development of science and technology because any kind of imposition of ban cannot stop the inquisitiveness of mind and so long this inquisitiveness will remain inventions will continue silently. This cyclic order forms the code of the basic instinct of the human being which bestows the human being with the novelty of creativity. At the same time it is our cardinal duty to ensure our smartness; our knowledge should not impair our own root or cause extinction of our own existence and to achieve the above goal we should allow our cognitive faculty to save us from the slavery of our own brainchild.

3. AI and its Challenges to Governance: Our Hopes and Fears

The application and surprising advantages of AI is no more confined within the theoretical domain rather AI has been gradually developing for quite some years. AI has splendid growth and has far reaching implications in economic, social, political, judicial, administrative, health, education, and defence sectors. Spectacular progress and empowering with the automation of machine we are constantly carrying on research activities to innovate the unexplored areas for development of mankind. We are taking the aid of AI not only in solving the complex problems but also to do our routine work in order to save labour, time and expenses. We can see the impact and influence of AI in exploring space technology, health matters especially in the matter of exploring artificial life and development of stem cells, biotechnology, legal matters, defence matters, education etc. Even in our routine activities we are using the different software to run the examination system, administrative activities, financial matters, academic activities etc. and we term all such activities as a part of e-governance. We are not only witnessing the usefulness of AI but also appropriating the benefit of it. However, at the same time a fear is arising from some real and fundamental challenges posed by AI system.

Beside the high hopes from AI, fear and doubts arising out of AI are also troubling our mind. The main concern against the AI system is that it in its present form depends on the algorithm or the programming which is being formulated by the state actors, private sectors and the multinationals. Many a times we do not get the answers or simply we are ignorant that behind creation or formulation of certain programming what mind set-up, ideas, values, objects played the role. At the time of availing the benefits of AI system we do not bother ourselves to enquire or to know who is writing a particular code or what is the intention

behind writing a particular code and this ignorant or indifferent attitude may severely impair our freedom, democratic values, and pluralism or may cause irreparable damage to the existing social fabric. As majority of the population either is totally ignorant about the AI system or has a very vague knowledge about the same, mainly some technocrats, computer programmers are handling the issues of AI system in sovereign and non-sovereign sector both, and as a result it may seriously affect the law and order, public health, morality and endanger 'Right to Privacy'. Few people are regulating the automation of machine as most of the world population either has no idea about it or due to scanty knowledge have no opportunity to handle the AI system and our gradual dependency on AI system may establish the tyranny of a handful of persons and in this way an anarchical world polity may be formed which may seriously jeopardise the rule of law, freedom, life and liberty. Apart from the above in the regime of AI a large data containing the fundamental information including biometric is lying in private domain and in an unprotected state it is a matter of grave concern as it may seriously breach the right to privacy and also may endanger the security, public order and life.

Often the power mongers, separatists and the enemies of humanity use AI system as a shield to spread inequality, bias, hatred and rifts among the different strata of the society. The AI system in its present form works as per the parameter set by the developer or the inputs installed through fixing a particular algorithm. AI is a process of system which enables the machines to come in action as per the algorithm installed as inputs. If the parameters or the algorithm has been formulated with an ill or ulterior motive then it may cause disruption in the society which is antagonistic to equality, equity and humanity. We should not forget that equality is antithetic to arbitrariness and it is needless to mention that arbitrariness cannot go well with the democratic values and ethics. For example, we know the person with lower income will have lower credit score but in computing credit score, if the parameter is set to count the credit score of the Facebook friends then the people belonging from the low-income background will always have the low credit score even if their present financial status is very strong because of their Facebook friends. It is presumable that generally people belonging to poor economic background, their friends and relatives will be of the same strata of the society.¹⁴ Therefore, it is very important to know that who is writing a particular code while setting an algorithm, for what purpose the programmer is writing that code and what is his/

her intention in writing such programme, and what code he is writing. Predictive intelligence may always not go well with the societal values and ethics. AI system can be used with an ulterior motive to spread discrimination on the ground of race, gender, poverty etc. In support of the above contention, we may highlight about recidivism, risk scoring software by the US Criminal Justice Mechanism which is found heavily partial and detrimental to black defendants.¹⁵ As per the report of Access Now the software like criminal risk assessment, predictive policing software etc. is found to create unintelligible differentia among the society.¹⁶ Use of killer robots in war, use of modern surveillance system and information technology supported by the AI system may affect the freedom, sovereignty of a nation, spark global arms race and arm the repressive governments and terrorist groups to use the above AI system against the humanity.¹⁷

We are constantly being watched, monitored, examined and controlled by the algorithmic forces silently, without our consent and knowledge which is grossly violating our human rights, integrity, trusts, security etc. and the whole system becomes highly immoral and unethical. Nowadays we are not only being governed by the rule of law but also by our own innovated technology. The modern algorithmic proposition is not confined within its badness or goodness rather it is now more concerned with the power structure theory and indulging in politics of exclusion. The problem is not with the algorithm rather it is with the maker of a particular technological design coupled with the mens rea. It is really ridiculous that we are sacrificing our own freedom by our own technological innovation and exposing our helplessness behind our smartness. States are using facial recognition software to catch the jaywalkers, rioters and at the same time to identify dissidents and protesters and to find out the loyal citizens.¹⁸ Different algorithms are constantly evaluating and analysing our biometrics, behaviour, emotions and mind and accordingly deciding our political preferences, choices and inclinations and categorising us accordingly which can be biased outcome and may be far from the truth or may be formulated purposefully with ulterior motive. Not only that, the values set by the automation of machines may conflict with the social values because they represent the thinking of the makers of a certain algorithm.

AI is the result of knowledge revolution and bring, with it several opportunities for the mankind. It has given a new direction to economy especially in regard to digital economy, digitalised commodities and services. It has brought radical revolution in the matter of health system

especially the matters concerning artificial life and it can prove to be a milestone to deal with the environmental pollution, global warming etc. Through incorporation and adoption of e-governance the States can ensure distributive justice properly and can fight with malnutrition, hunger, climate change etc. However, the other part of the story is very blurred and dark. AI system led automation of machines are rapidly replacing all kind of manual work and as a matter of fact a large number of people are losing jobs and at the same time it is also crippling the scope of getting jobs which is increasing and intensifying the problem of unemployment.

The challenges enumerated over here are about the AI system which works under the direct control and supervision of human being but really it is hard to predict or even imagine what will be the consequences of AI system in its near human, equivalent to human or super human role. We should not forget the warning of Christian Lous Lange given 100 years ago that technology is a useful servant but a dangerous master.¹⁹ AI can be extremely disruptive, empowering, challenging and at the same time unpredictable one which is needed to be handled with prudence.²⁰ We should not surrender ourselves before the dictatorship of technology. This is true that we cannot stop the development of science and technology but this is also true that we should not act aimless and our development should be dedicated for further development of humanity, elimination of misery and limitations of human beings and not the elimination of human being itself. Genetic engineering and biotechnology has developed exponentially and human quest is intensifying for creation of artificial life. An attempt or an approach is circulated in and around us to create a world of intelligence without bodies in the form of super human intelligence, where human beings will have no say. It might be a world of fantasy where the place of we the humans will be in the zoo and of course it is in the present context but at the same time it is the need of the hour to take a vow not to proceed towards our own extinction. It is not our smartness or symbol of development of knowledge but sheer foolishness if we allow the technological growth to crush the humanity.

4. The Temptation of Artificial Intelligence and Humanity

We cannot rule out the revolutionary impact of AI at its present stage in our social, economic, political and cultural life. AI has both the benevolent and malevolent component. No doubt it proved helpful to solve many complex problems of the human life. We are using AI

system in information technology, health system, legal system, transportation, education system and in many other fields and we are witnessing its benign impact over there. But at the same time we are also witnessing its detrimental impact too and the crucial question what is present before us is how to gift a pleasant, sustainable, benevolent, peaceful and beautiful world to the future generation where humanity and only humanity will grow. Machine learning technique and the AI system should not be allowed to control our fate or destiny rather we should use AI only to give a rock solid foundation to humanity – to create a world based on sustainable development, where there will remain no hunger, malnutrition, poverty and people will get the advance health facility and will take breath in an enabling environment. The AI should be used to strengthen the concept of human world with full of amenities and not to make humanless world.

To achieve this goal the world polity requires balanced AI governance. Beside the state actors a large number of non-state actors regulate, create and control the system of AI. A significant number of makers of algorithms are private persons and they are controlling, shaping and reshaping the codes of the automation of machines and machine learning system. Government of a country has very limited role in the matter of AI system because the science of robotics and automation of machine is involved with a different expertise knowledge pattern and orientation which is different with the traditional knowledge system. Any person, avocation or organisation vested with the above skill may control and rule the realm of AI. Keeping the above in mind, the situation demands a balanced governance where both the state actors and non-state actors or the public and private entities get the space to work and to regulate the matters related to AI. Alone the government cannot regulate AI system as it has least of competency in the above matter but at the same time the whole matter cannot be left to the private entities as it may seriously jeopardise the rights of people and take undue advantage by exploiting the situation in their favour without caring for humanity. AI governance also demands for a holistic agreement among the entities related to AI, so that the whole system can be used for the betterment of this planet and for its inhabitants. At present few States are dominating the AI system and which in itself is a threat of dominance unless the fruits of AI are shared by all.

5. Conclusion

We cannot stop the progress of AI but certainly we can address the evil consequences of the machine learning system. To save the mankind and to uphold the humanity the world polity must come ahead to formulate a balanced policy towards AI, which should be based on equality, equity and mutual trust and faith. It must involve the state actors, industries, academia and the civil society to formulate a comprehensive policy on AI system to solve interconnected complex global challenges to save the mankind. Though the existing human rights laws like International Bill of Human Rights, different covenants, conventions, and protocols are sufficient to protect the human rights of the people but it is the need of the hour to focus on transnational laws and agreements to protect the fundamental rights of the people including their life, liberty dignity etc. We don't require any master in the shape of AI rather a device to facilitate the complexities of life.

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A Perspective on Countering China's Dominance in Space

Pushpinder Singh Bath*

Abstract

China regards its space programme as an inherent expression of its comprehensive national power for furthering its political, economic, and military interests. Driven by focused political vision, China has developed significant space capabilities, thereby transforming itself into an advanced space power. The opaque intentions and policies of China on its unsettled territorial borders and claims in South China Sea, coupled with rapid strides in space technology, implies that China's improving military space capabilities could be used decisively against an adversary during a future conflict, to provide support for long-range precision strikes and threatening the adversary's space-based assets. It is, therefore, pertinent to examine China's military space capabilities and the threat they pose for our national security. The rapid militarisation of space by China poses a serious geostrategic challenge to India. The increasingly complex and competitive geopolitical situation demands that India protects its national interests by instituting effective countermeasures to deal with the threat from China's emergence as a space power.

Key Words: Peoples Liberation Army (PLA), Strategic Support Force (SSF), Anti-Satellite (ASAT), Directed Energy Weapons (DEWs), Anti Access Area Denial (A2AD), Beidou, Mission Shakti.

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Introduction

China's acquisition of advanced space capabilities has established its status as a first-tier space power. Not only does China have the capacity to exploit space to meet the strategic requirements of the Peoples Liberation Army (PLA), it also has the capability to deny the use of space by an adversary. This has a direct bearing on our national security and there is an urgent need to adopt suitable countermeasures against this emerging threat from China.

China's Growing Space Capabilities

To put China's space ambitions into context, it is worth reviewing the history of the country's space programme. It began in 1956, as an offshoot of China's missile technology development efforts and was soon allocated the same priority as the country's missile and nuclear programmes. In 1970, China became the fifth country to place a satellite in space. During each of the two five-year plans that comprised the 1990s, China launched about 10 satellites. But in the next five-year plan starting in 2001, China placed more than 35 satellites into orbit. A 2006 Government white paper on space called for the development of a new generation of satellites and the improvement of launch capabilities.¹ It portrays the priority given to acquiring advanced space capabilities by China.

A more important motivation for China's investment in space is the country's perception of its security environment and its understanding of the evolution of modern warfare. The Chinese believe that it is important to deny the use of space by opponents to cripple their Command, Control, Communications, Computers, Intelligence, Surveillance and Reconnaissance (C4ISR) capabilities. The Chinese military comprehends just how reliant most modern armies have become on their satellites. Space-based applications have transformed the conduct of war on land, at sea and in air. Space-based assets have made it possible to collect and rapidly disseminate intelligence almost in real-time. They make military more effective and lethal, while simultaneously reducing casualties. PLA believes that the past approach to wars, which relied heavily on mass mobilisation and preparation for an all-out warfare, are no longer viable. These inferences have been made by Chinese after assessing the use of space applications in Operation Desert Storm, NATO operations in the Balkans and the wars in Afghanistan and Iraq. PLA engaged in extensive analysis of these coalition operations and sought to incorporate the lessons into its own

approach to war. These conclusions have shaped China's overall military modernisation efforts as well as its space ambitions.²

Analysis of authoritative Chinese documents indicates that Beijing believes that Space dominance would be critical to its military operations.³ Hence China's thrust in space rests on the acquisition of following capabilities:

- **Ability to Enter Space:** It includes the ability to launch satellites of multiple payloads and weight classifications into space to meet the strategic requirements of PLA. It also includes telemetry, tracking and control (TT&C) capabilities.
- **Ability to Exploit Space:** This involves the capability to support terrestrial operations and includes surveillance tasks, ballistic missile early warnings, communication, navigation and meteorological data.
- **Ability to Control Space:** This involves the ability to preserve own space assets, including capability to operate in the face of enemy Electronic Counter Measures (ECM) and the ability to interfere with, disrupt or destroy an adversary's space assets.
- **Focus of Chinese Space Investments:** In consonance with the concept of space dominance, Chinese space investments seem to be focused towards the following domains:
 - * Developing capabilities to fulfil its space support requirements i.e. being able to launch systems of different roles and configurations into space.
 - * Improving capabilities that enhance the employment of PLA in the Asia-Pacific region.
 - * Developing capabilities that allow China to deny the use of space to its potential adversaries.

PLA is assessed to have acquired the following space capabilities in its pursuit of achieving space dominance⁴:

- **ISR Capability:** Space based systems to enhance PLA's Intelligence, Surveillance and Reconnaissance (ISR) capabilities, to provide situational awareness and early warning to the operational commanders and strategic planners.
- **Ballistic Missile Warning:** Space based systems in conjunction with ground based systems to provide real time warning of the launch of ballistic missiles.
- **Tracking of Space Assets:** Space and ground tracking systems to obtain the data pertaining to adversary satellites in conjunction with its counter space capabilities.
- **Satellite Communications:** Ability to establish or augment

communications in operational areas that lack terrestrial communication means.

- **Positioning, Navigation and Timing (PNT):** Space based PNT capabilities through its Beidou constellation to provide reliable navigation and precision guidance for conduct of operations and targeting by PLA.

- **Environmental Monitoring:** Space based systems to provide data on meteorological, oceanographic and space environment, which may affect application of forces by PLA.

- **Counter Space Capabilities:** Capability to target the adversary's space and/or ground based assets to cripple his C4ISR network.

Today, China possesses the facilities, satellite technology, mission control centres and launchers required of a space power. The 'Long March' series of rockets can launch satellites with multiple payloads in the geosynchronous and polar orbits. Various satellite constellations have been designed for communications, meteorology, remote sensing and navigation. In addition, China has shown great interest in small satellites and has developed a dedicated launcher for them. The Chinese have also developed kinetic and non-kinetic counter space capabilities to engage the critical space assets of an adversary to deny their usage in war. The creation of Strategic Support Force (SSF) by PLA is an important milestone in the prioritisation of space and heralds an increased role for space applications in the planning and conduct of operations.⁵

Threat Analysis

China is developing an array of kinetic and non-kinetic Anti-Satellite (ASAT) weapons including direct ascent missiles, high power lasers, ground based jammers and killer satellites, that will give it a strategic advantage in any future conflict. China now has the capability of targeting an adversary's satellites in the low and medium Earth orbits. While direct ascent missiles and killer satellites are kinetic ASAT weapons, non-kinetic ASAT weapons like Directed Energy Weapons (DEWs)⁶ could disable satellites from a standoff distance using lasers, particle beams, high-energy radio frequency etc.

China is developing multi-dimensional ASAT capabilities⁷ to support its Anti Access Area Denial (A2AD) strategy. It is also making large investments in building and fielding robust space warfare capabilities designed to support Beijing's drive to achieve regional and global hegemony.

In order to gain self-reliance in satellite navigation capabilities, China has developed its indigenous Beidou⁸ satellite navigation system that will assist PLA in expanding its global reach and provide precise targeting capability to its long-range weapons.

PLA's prime objective is to deny the US access to the Indo-Pacific region. Military operations supporting that goal would begin with attacks aimed at destroying and disrupting the adversary's command and control capabilities by the employment of cyber and kinetic attacks on satellites and ground assets. Future systems could include orbiting electronic jammers, satellites with robotic arms, laser weapons. China is preparing for future wars and is developing formidable space and counter space capabilities, to say the least.

To accomplish its strategic objectives, various types of offensive counter space operations⁹ that may be put to use by China, are as given below:

- **Denial and Deception:** This would constitute counter space activities to nullify space capabilities of an adversary nation, generally through non-lethal means.

- **Sabotage Ground Segment:** One of the easiest ways to disrupt, deny and degrade the utility of space systems is to attack or sabotage the associated ground segment. These specialised facilities are critical to the continuity of operations and effective use of the satellites, at the same time these are more vulnerable to attacks by a variety of means, ranging from physical attack to computer network intrusions.

- **Direct Ascent ASAT Weapons:** These can take the form of direct ascent interceptors or orbital interceptors. These weapons are typically ground or air launched into orbits that are nearly the same as the intended target satellite. These have been described below:

- * **Interceptors:** The potential of an interceptor is a function of its damage mechanism, which could either be kinetic or non-kinetic.

- * **Miniature Satellites:** Microsatellite, placed on an interception course and programmed to home-in on a satellite could fly alongside a target satellite, until commanded to disrupt and then disable and destroy the target satellite. Detection and defence against such an attack is very difficult.

- * **Co-orbital ASAT:** These systems consist of a satellite armed with a weapon such as an explosive charge, fragmentation device,

kinetic energy weapon, LASER, radio frequency jammer or a robotic arm. Co-orbital satellites may also be designed to intentionally collide/crash into a target satellite.

- **Directed Energy Weapons (DEWs):** DEWs include LASER, Radio Frequencies (RFs) and particulate beam weapons. DEWs are capable of attacking multiple targets in a short span, whereas interceptors tend to be single shot systems taking relatively longer time to reach and affect the target. DEWs afford a degree of deniability due to stand off nature of attack, lack of opportunity to the potential victim to defend itself due to the relatively quick nature of the attack and degradation of the target may not be immediately apparent, making it difficult to figure out when and from where the attack occurred.

- **Electronic Attack on Communication,** Data and Command Links: An act involving the use of electromagnetic energy to target the command and data links of satellites and ground stations.

India's Space Policy

India's space programme and policy have been undergoing important changes in recent years. The focus of Indian space programme has been social and economic development of the country. India's traditional position opposed militarisation of space and Indian officials argued that space should be used only for peaceful purposes. Even as India continued to rally against militarisation of space, it clearly acknowledged the passive uses of space assets for military applications in the realm of surveillance and communications. So, development, technological advancement and security have all been important drivers of India's space programme.

The Chinese ASAT test in January 2007 had a marked impact on India's approach towards utilisation of space. Policy articulations after the ASAT test became much more unambiguous on the need to develop more sophisticated ways of dealing with these new challenges posed by China. The Chinese ASAT test and the US shooting down a satellite thereafter in February 2008 pushed India to recalibrate its own policy options. It is a result of this recalibrated approach that India carried out Mission Shakti,¹⁰ a direct ascent ASAT test on 27 March 2019. While making a declaration about the successful conduct of this ASAT test, Mr Narendra Modi stated this that this test was not aimed at any other nation but its purpose was to validate the capability to safeguard our own space assets.

Vulnerability of India's Space Assets

India's communication, navigation, weather and ISR satellites orbiting in Low Earth Orbit (LEO) are clearly more vulnerable today against offensive counter space weapons than they have ever been in the past and their vulnerabilities have enormous implications for a whole range of areas affecting socio-economic activities and military operations. Offensive counter space measures involve the use of lethal or non-lethal means to neutralise an adversary's space systems or the information they provide. Offensive counter space operations are designed to achieve following purposes:¹¹

- **Deception:** It employs manipulation, distortion or falsification of information to induce adversaries to react in a manner contrary to their interests.
- **Disruption:** It is the temporary impairment of some or all of a space system's capability to produce effects, usually without physical damage.
- **Denial:** It is the temporary elimination of some or all of a space system's capability to produce effects, usually without physical damage.
- **Degradation:** It is the permanent impairment of some or all of the space system's capability to produce results, usually with physical damage.
- **Destruction:** It is the permanent elimination of all of a space system's capabilities to produce effects, usually with physical damage.

Contours of Response Strategy

Based on the threat perception brought out above, the suggested contours of India's response strategy could be as follows:

- Formulate a **National Space Policy** and establish **Defence Space Agency** that would coordinate the planning, launch and utilisation of defence space assets and also institute necessary safeguards to ensure their security.
- **Hardening** of own satellites against various types of attack.
- Develop capabilities for **rapid reconstruction and launch on demand**.
- Develop **alternatives to space systems** and utilise the space assets of friendly nation's to create redundancy.
- Engage in bilateral and multilateral agreements to enforce '**Zero**

Weapons in Outer Space'

- Develop various **offensive counter-space capabilities** as a means of deterrence.

Suggested Countermeasures

Active Defensive Posture: India needs to adopt an active defensive posture, beginning by expanding and invigorating the research and technical base needed to defend or replenish space assets. In the absence of defensive systems, India would do well to invest in small satellite development and rapid launch capabilities. The combination of the two, once achieved, changes the strategic calculations of prospective adversaries. Another important component of an active defensive posture is political rhetoric that fits the times.

Synergy in Research and Development (R&D): It may also be necessary to bring about synergy in the R&D effort of ISRO and DRDO, while simultaneously tapping the potential of private industry for the development of encrypted satellite based communication and navigation equipment and surveillance sensors. The direction of R&D effort should be based on operational requirements of the armed forces.

Legislative Push: Parliament must focus on bringing about a legislation to encourage the development of private aerospace industry. Presently, ISRO has the monopoly in this sector. Whereas, in advanced space faring nations like US and China, private aerospace industry is playing a pivotal role in ushering in new space technologies. However, we are lagging behind in this sector and a legislative push is required to make the conditions conducive for the establishment and growth of private aerospace industry in India.

Passive Countermeasures: Passive countermeasures include warning for hiding, evading, manoeuvre and initiation of deceptive measures through electronic countermeasures. Some of the suggested passive countermeasures are as under:¹²

- **Hiding**, by means of satellite miniaturisation and orbit selection.
- **Manoeuvre** from a ground station for evasion.
- Deception by deploying **lightweight decoys**.
- **Hardening** of the satellite and its on-board systems, for example, use of shielding.
- **Electronic countermeasures and electro-optical counter measures**, for example, use of shorter wavelengths and directional antennas.
- Redundancy in ground infrastructure by adding more Earth stations and developing **mobile ground stations** to enhance survivability.

- Deploying new generation satellites with the capability to enhance the **power of signals** thereby making jamming more difficult and deploying additional satellites for redundancy.
- Protection against DEWs by developing a variety of **sensors, filters and shutters**. These sensors should trigger the on-board active and passive defence mechanisms.
- **Modular design** to enable mix and match of different payloads on the same spacecraft platform.
- **Developing partnerships with friendly foreign countries to use their satellites** for space applications. The adversary may get disinclined to attack a foreign satellite due to diplomatic ramifications.
- **Reduce dependence on space systems** by utilising space assets as an alternate to terrestrial or aerial platforms.

Active Countermeasures: While active countermeasures do not counter ASAT attacks, they portray our implied threats of retaliation and act as a deterrent against the adversary's intended ASAT attacks. Some of the suggestions for the development of active countermeasures are as under:

- **Direct ascent ASAT weapons** and Co-orbital ASAT systems as a credible deterrence measure.
- Capability for **satellite jamming**. India should explore different jamming options available including proactive, function specific or hybrid and smart jammers.
- **DEWs** for retaliatory actions or to render adversary's ISR capabilities ineffective.
- **Electronic Warfare (EW) and Cyber-attacks** to target the adversary's vulnerabilities while retaining the option of plausible deniability.

Conclusion

The recent and on-going conflicts world over, have emphasised the importance of military space operations. It is expected that in near future, space assets will possess the capabilities for countermeasures for avoiding, evading and attacking any threats. The question of restricting the use of space for peaceful purposes remains under debate and shall require much more than lip service from the global community. China has established itself as a major player in the space arena and is vigorously propelling its research work in the field of counter space offensive operations. While the focus of the space developments of China are directed more towards tackling

the US, India needs to remain vigilant and adopt suitable countermeasures to safeguard its critical space assets in the interest of national security.

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Religious Periodisation of History as a Derivative of the Mosaic Distinction and its Applicability to Indian Historiography

Dr. Ramakrishnan Sitaraman*

Periodisation as a Useful Framework

Dividing human history into specific periods and associating some major attributes with each period has the undeniable merit of providing long-term perspective as well as operational convenience. For example, the study of the Pharaonic phase of Egyptian history (itself a period) is divided into specific periods – the Old, Middle and Late Kingdoms. It must also be realized that the transition between one period and the next need not be sharply demarcated. Thus, Egyptology formally recognizes three ‘Intermediate Periods’ during the transition from one major period to the next. Once these major patterns are discerned and a consensus arrived at, periodisation provides context and perspective, enabling the researcher to rapidly discern the possible time horizon of subsequent discoveries. Though the above periodisation scheme may be criticized as being completely focused on royal dynasties and political dispensations, not taking note of interesting patterns of individual and community life, or of socio-economic circumstances, it still retains its value as an ideational framework that serves to organize data and discern broad trends. It may even be strengthened or suitably modified as more information progressively comes to light. Scholars may also specialize in one or more periods of this history, thereby providing focus for both interpretation and investigation, besides being mutually intelligible in

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terms of both contributions and critiques without spreading their efforts too thin.

Traditional Greco-Roman and Indian Views of Periodisation

While we have spoken of periodisation in terms of an example drawn from contemporary scholarship, it is by no means confined to formal scholarship, given abiding and universal interest of humans in their ancestral history. So, Homer’s epics, the Iliad and the Odyssey, hark back to a heroic age that was already ancient for his listeners. Homer’s account was, of course, only about what Greeks characterized as their ‘Heroic Age’ in their own scheme of periodisation. The Roman poets Ovid and Hesiod recognized five historical ‘ages,’ of which they considered themselves living the last – the Iron Age. Thus, periodisation may be carried out not necessarily by professional historians and not necessarily with reference to material objects or political dispensations, but also in accordance with a world-view based on certain values. The ancient Indians likewise formulated a clear periodisation consisting of four *yugas* constituting a *mahAyuga*, repeating in a cyclical fashion. The quality of a *yuga* is based on the relative strength of *dharma* (‘that which supports,’ duties and mores) during that period. *Dharma*, represented as a cow, is said to be supported on four legs in *satya yuga*, three in *tretA*, two in *dwApara* and one in *kali*.¹ Note that this is again based solely on values, not on any kingdoms or dynasties. An important distinction between modern and ancient classification schemes of historical periods is that the former tend to focus primarily on the material, while the latter focuses primarily on the mental, moral, or the cosmic, and only secondarily (if at all) on the material. For example, when we speak of a ‘Bronze Age’ and ‘Bronze Age texts,’ we point towards an absence of iron smelting and the large-scale usage of the alloy bronze during the said historical period. However, the ancient Greeks would have understood the term ‘Bronze Age’ as the third in a process of slow degeneration, after the Golden and Silver Ages. This was followed by the Heroic Age, that obviously does not refer to any metal or alloy, but to the events culminating in the Trojan war. Also note that in both the Indian and Roman systems, only the last age (*kali* or Iron Age respectively) is unambiguously historical in the modern sense, and is also considered ongoing and current. Thus, the ancients included themselves and their descendants as part of a single ‘period’ – the latest one. Of course, there may well be genuine historical details buried in the accounts of the earlier ages. Two notable examples of

history embedded in myth are furnished by the excavation of historical Troy² and evidence of the Gangetic flood that swept away the city of Hastinapura, resulting in the relocation of the *kuru* capital to Kaushambhi.³

The periodisation scheme elaborated by the ancient Indians (*cf.* Greeks) thereby converted history into a vehicle of transmitting mores, values and ideals from generation to generation, and using the accumulated wisdom of generations to inform contemporary issues, both individual and collective. In these schemes of periodisation, there is not, and indeed cannot be, any scope for further subdivision of the current historical period in any fundamental way. The contemporary and past generations of the historical period all belong to the same Age of *kali* (or the Age of Iron for the Greeks). Thus, the traditional Greco-Roman and Indian schemes admit of no discontinuity between the historical past and the present, at least in terms of certain values and ideals.

The Mosaic Distinction as Applied to Periodisation

It may seem a trite observation, but the function of a prophet is to prophecy, i.e., predict future events. That this was a normal function for many religious groups in the ancient Middle/Near East is attested to in the biblical record itself.⁴ However, it must be noted that Moses, who is said to have undertaken the first major codification of the Jewish religion, went well beyond this usual prophetic function. The Biblical account makes it clear that, by proscribing all religious practices but those he mandated, Moses completely changed the religious practices and theology of a group of fugitives he led out of Egypt, leading to the establishment of Judaism. In the process, he not only institutionalized, but also completely redefined the scope of a prophet's work. So, while the other prophets functioned *primarily* to predict, the Jewish prophet's major, nay *primary*, function is to maintain what the Egyptologist Jan Assmann has termed 'the Mosaic⁵ distinction.' This is defined as a distinction between 'true' and 'false' religion⁶ and has important consequences for the ensuing view of history. From the viewpoint of the Mosaic prophet, the lapse into polytheism and idolatry is not only a failure of a contemporary adherent's zeal, but also significantly a regression to an earlier period of time, when the prophetic revelation and strictures against polytheism and idolatry were still unannounced (or not enforced). Much as the Noahic deluge is believed to have wiped out all mankind and presented a chance for a select few to start

over on a blank slate, the Mosaic dispensation seeks to purge remnants and memories of the Pagan past from the collective existence and memory of the Jews, *except* by way of cautionary example, censure, disapproval and warning.⁷ In the Old Testament accounts, this fact comes out rather starkly. Many prophets after Moses attempt to restore their people to the Mosaic condition, but the 'past' that was yet alive around them intrudes into this project in the form of the Gods of their neighbours are 'like a snare unto you'.⁸ The Mosaic covenant with God is accompanied by a collective erasure, selective retention and doctrinally mandated interpretation of historical memory.

The Mosaic tradition, therefore, seems to introduce dichotomy into temporal continuity in consonance with, and in continuation of its dualistic metaphysics.⁹ At the practical level, this dichotomy arises from a very natural and obvious temporal marker: The period preceding the divine revelation, and the period subsequent to it. As a result, the values, rites and mores deriving from the former period are either eliminated altogether or radically adapted and reinterpreted in the latter period. Thus, while the interpretive framework employed by the 'ethnic' and 'natural' religions view the ages past as essentially superior, the Mosaic religions¹⁰ view the pre-revelatory past as essentially inferior to, and incompatible with the post-revelatory present in the metaphysical and philosophical senses. It is important to note that this aspect of the Mosaic distinction does not automatically preclude the transmission of a genuine pre-revelatory legacy in terms of practical and useful knowledge such as agriculture, mathematics, metallurgy or medicine may be duly appreciated and welcomed. As is often pointed out, modern 'western' science and the European Renaissance are indebted to the preservation of pre-Christian Greco-Roman and Indian thought at Islamic courts.

The preference for a 'pre-' and 'post-revelatory' framework in ideological terms persists in modern times, as exemplified by contemporary secularists in Europe terming the continent 'post-Christian' precisely because the constitutions of modern European nations emphasize, albeit to differing extents, the separation between the church and the State. We note that such a view is a natural outgrowth of the historically significant role of the State religion (and by implication, the ruler's religion) in the administration of European States, and historical efforts in to separate the two in actual practice. Of course, 'post-Christian Europe' does not necessarily mean that Christianity is extinct in Europe (though it may be in decline) and even the avowedly

secular European nations have not made any attempt to prohibit the practice of Christianity. Rather, they continue to observe national holidays in consonance with the major Christian festivals and some even fund churches with a part of the taxes collected (e.g. Denmark). As an aside, we point out that forcible 'post-Christianization' by the state was attempted on a large scale and over a reasonably long time by use of State power in the erstwhile USSR, which was eventually followed by the 're-Christianization' of the country under the leadership of the Russian Orthodox Church after the fall of the USSR. More recently, formerly communist Poland has officially declared Jesus as the 'King of Poland'.¹¹

The Prophetic Revelation and its Role in History

The prophetic-monotheistic revelation notably pronounces and enforces diktats against 'false religions' that encourage 'polytheism and idolatry.' The prohibitions against polytheism and idolatry correspond to the first two of the ten commandments of the Mosaic revelation. As time passes, different prophets try to restore the original and pristine religion, after cleansing it of what they consider 'deviant practices' that may have crept in. They succeed to different extents based on the prevailing circumstances. Repeated occurrences of such movements within a Mosaic tradition eventually results in the development of social conditions, wherein expressions of religiosity incompatible with the Mosaic distinction are placed at a disadvantage, or entirely eliminated from the religio-cultural scene.

An important and relevant instance of how both the orientation and range of such efforts may change drastically is reflected in the traditional account of the apostle Paul. His initial position as a practicing Jew was to disapprove of the then-nascent Christianity. However, after his conversion to Christianity on the proverbial road to Damascus, he preached the gospel not only in the synagogues, but among the Gentiles as well, which was unprecedented in the history of Judaism. The direction of prophetic efforts thereupon changed from being solely an internal one, ostensibly against a Jewish heresy, to an external one encompassing Gentiles as well. Thus, though starting with the recognition of a 'heresy' endangering the parent religion (i.e. Judaism), Paul's efforts eventually turned towards the propagation of 'the true religion' (i.e. Christianity) to all non-Christian groups, including Jews.

It is with Paul's evangelical efforts that the Mosaic distinction begins its global career among Gentiles.¹² Its historical effect on Europe

was that Christianization introduced major shifts in religious outlook and world-views over time, especially in attitudes towards the religious 'other' and the religious past. Generally, the new religion was imposed by the ruler on the subjects (e.g. Constantine I), which unequivocally makes the religious affiliation of the ruler, an individual with exceptional executive authority in a monarchy, a critical factor in the future course of events. As a result, all European countries have a history that is clearly divisible into pre-Christian and Christian periods, with the latter notably characterized by the official disapproval of Judaism and Jews to various extents. All the same, the internal efforts at ensuring internal adherence to the 'correct version' of Christianity also continued, reminiscent of earlier prophetic attempts to prevent or rescue their people from lapsing into polytheism and idolatry. An instance of intra-Christian confrontation in the early days of Christian ascendancy in the Roman Empire was the suppression of the Arrian heresy. Nearer our own times, the British Succession to the Crown Act of 2013¹³ officially ended the disqualification of potential heirs who had married Roman Catholics from royal succession, understandable because the British monarch is also the 'supreme governor' of the Church of England. This is emblematic of the importance attached over centuries to the religious affiliation of rulers (down to the specific denomination) in the Christian world over centuries, starting with Constantine I who initiated the Christianization of the Roman empire.

The Problematized Periodisation of Indian History

In Indian historiography, periodisation in the modern sense was introduced by the Scottish utilitarian philosopher James Mill, with his publication of *A history of British India* in 1817. He divided Indian history into the Hindu, Muslim and the British periods. Romila Thapar, an eminent contemporary historian of India has repeatedly taken the issue with James Mill for this periodisation. Such a view, she argues, unjustifiably construes Hindus and Muslims as monolithic and inevitably opposed communities. For her, it is merely incidental that the rulers of the land subscribed to a particular religion, and her stated view is that the historian should seek out multiple narratives embedded in the complex interactions of adherents of different religions (and sub-sects).¹⁴

However, we suggest that Mill's scheme of periodisation, even if it was used to justify colonial rule on occasion, is unexceptionably based on the real dichotomy introduced into the interpretation of history by the Mosaic distinction. A radical change in both religious practices and

outlook of entire populations on the scale of kingdoms and empires in the span of a few centuries may be justifiably termed ‘substantial change in society,’ to use Thapar’s own words. Mill’s periodisation is essentially rooted, not in a calculated colonial strategy, but in the well-documented career of the proselytising Mosaic religions discernible across several cultures and regions over the last two millennia. He therefore periodised Indian history in a manner expected of one who had observed a dominant theme in the history of these religions. Of course, the changeover from one religion to another upon the succession of a particular ruler is by no means instantaneous. Rather, there is invariably what we may call a ‘transitional period’ marked by a period of co-existence, wherein bi-directional cultural exchange, syncretism and confrontation may all occur between adherents of the prevailing religion and the introduced Mosaic religion in a given area. The duration of this ‘transitional period,’ that Mill does not seem to have explicitly recognized, varies from place to place, but the preponderant historical outcome has been the eventual dominance of the Mosaic religion. This outcome seems to apply to interactions between two Mosaic religions as well. Most spectacularly, Egypt itself (the source and reviled object of the Mosaic distinction) was first progressively transformed into a Christian province under the rule of Christianising Roman emperors. Later, when Egypt was conquered by the newly-Islamised Arabs in the seventh century C.E. it eventually became an Islamic State under successive Muslim rulers.

However, the foregoing discussion still begs the question as to why Mill characterized the then-current colonial period as ‘British’ rather than ‘Christian.’ The answer to this apparent contradiction lies in Mill’s approach to conversion of Indians to Christianity. As a utilitarian and a student of history, he could not help but draw ideas from prevailing examples. Importantly, as Anna Plassart (2008)¹⁵ has documented at length, Mill was very much a convinced Christian, when he wrote his *History* and supportive of the eventual conversion of all Indians to Christianity. However, in consonance with his Quaker sympathies, his scruples led him to consciously rule out military force, political pressure or monetary inducement for conversion, and instead advocated slow conversion by the emulation of exemplars that were to be furnished by the British.¹⁶ So, in Mill’s scheme of things, India was to have eventually become Christian, thanks to British encouragement and example. His terminology is quite understandable given that he wrote his work when the East India Company had not yet overcome major Indian kingdoms.

At the time of publication (1817), the decisive defeat by the East India Company of the Maratha confederacy that ruled far larger tracts of the Indian subcontinent was still in the future (1819), and full-fledged British paramountcy (1858) was more than four decades away.¹⁷ Mill’s choice of the ‘British period’ is therefore seems to be cautiously conservative, and moreover in accord with the self-proclaimed policy of both the British government and the East India Company of non-interference in Indian religious practices and the general discouragement of missionary activities.¹⁸ Thus, a ‘Christian’ period of India in accordance with the religion of the ruling British elite was in the unforeseeable future, and facts on the ground pointed merited only a ‘British’ period.

A consistent theme in Thapar’s writings is the minimization of religious motivations of human behaviour, and a consistent attempt to highlight economic and political factors as crucial determinants instead.¹⁹ But then, what of her objection that Mill’s periodisation fails to take into account interesting interactions of great complexity between Pagan and Mosaic religionists and that social division was never watertight? As stated before, these interactions are but natural in ‘transitional periods’ because humans will be humans in spite of Mosaic (or non-Mosaic) admonition to the contrary. However, we take note of the objective fact that extensive religious transformation has already taken place over the last millennium in the Indian subcontinent in what are now the officially Islamic countries of Afghanistan, Pakistan and Bangladesh. Hindus have consistently decreased in both numbers and as a percentage of the population in these countries, which is accompanied by the loss of political influence. Likewise, traditional European religions went extinct after an initial period of co-existence with Christianity, and the native religions of Africa are also decreasing in both range and the number of adherents that Christianity and Islam continue to gain.

Thus, there is no major flaw in the periodisation of history on the basis of the religion of the rulers, especially when it pertains to the universalistic Mosaic religions over last two millennia. Viewed from a long-term perspective, an eventual extinction or marginalization of local ethnic and natural religions is a dominant and repeated occurrence in the last two millennia. In this context, the religion of the ruling elite has considerable influence in terms of the eventual changeover of religious outlook and culture of the society over which they rule. Religion-centric periodisation schemes such Mill’s may therefore be

evaluated on their merits quite independently of the range of ideological uses that such a formulation may subsequently serve. Stated differently, the colonial or imperial or nativist motives and arguments of historians do not invariably negate the intrinsic value of religion-centric periodisation for historical study and analysis. So it was not unreasonable for James Mill to have opted for the periodisation he did, even if he openly professed contempt for the Indian subjects that Britain came to rule and exploit in the colonial project. It is entirely possible to disentangle his bias from his historically reasonable periodisation based on the religion of the rulers.

However, religion-centric periodisation does fail when the sovereign or a government follows some version of a “natural” religion. Thus, Hindu monarchs, while adhering to a particular religious denomination at the personal level have mostly supported multiple religious groups other than their own.²⁰ Even Thapar herself points out the ‘absence of fanaticism in Hinduism’²¹ and disapprovingly characterizes modern attempts at political mobilization by Hindu nationalists as a ‘semitization’ or ‘syndication’ that seeks to recast Hinduism in a form similar to the revealed religions.²² The instances of Hindu sectarian bigotry also cannot be soundly backed up by resorting to doctrinal justification. Thus, instances of the Jain persecution of Shiva worshippers (Shaivas) in Tamil Nadu (southern India) cannot be justified by appeal to Jain scriptures that advocate non-violence. The Shaiva reaction has its roots in the very human resentment against the Jain co-option of the official machinery to shut down Shiva shrines, rather than any Shaiva doctrine *per se*.²³ Another especially notable example in this regard is that of Pagan Rome that permitted popular worship of the Indo-Iranian deity Mithra among even its soldiers, while simultaneously maintaining a chronically adversarial military posture against the Persian Empire. To reiterate, insofar as the proselytizing Mosaic religions are concerned, the religion of the ruler has greatly influenced State policy towards other religions in a majority of historical instances. Therefore, James Mill’s religion-based periodisation is generally consistent with historically known national policies, and essentially amounts to a recognition of incontrovertible facts and the well-known ideological orientation of the Mosaic religions vis-à-vis other religions. This is independent of his personal views on peoples and religions.²⁴ More importantly, it should be noted that religion-based periodisation is not mutually exclusive with respect to periodisation based on other criteria, whether economic or political.

A religion impelled by the Mosaic distinction often strongly influences State policy and fosters a generally unfavourable attitude towards ‘false’ religions (including other Mosaic religions). This effect is entirely predictable, even if further, consequential actions are additionally dependent on social conditions, political power and military balance. Individual aggression against the ‘other’ of any kind, Mosaic or non-Mosaic, may well occur, but systematic doctrinal support for such tendencies within the Mosaic religions provides them with a longevity that transcends the fate of individuals and nations. Therefore, the deliberately obscuring the contribution of religious beliefs to selectively highlight political, military and economic aspects would practically amount to the negation of the very possibility of any reasonable history of religions and religious ideas. Such negation leaves unnoticed and unacknowledged the very significant religio-cultural changes that have occurred during the last twenty centuries of the evangelizing Mosaic religions not only within the Indian subcontinent, but worldwide. The accession of kings with allegiance to a Mosaic religion is historically associated with significant religious developments that signal the commencement of a distinct period, with well-defined and distinct political and material characteristics that are products of an underlying worldview – a reasonable criterion for a rational periodisation. The religion of a monarch is no esoteric historical trivia, especially when it lays claim to being ‘the true religion’ in contrast to ‘false religions.’

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Disclaimer

The opinions expressed herein do not represent the views of the TERI School of Advanced Studies or TERI.

Notes

¹ kali (devanAgari: कलि) is not to be confused with kAlI (devan Agari: काली), the Goddess. All Sanskrit terms are transliterated as per the ITRANS convention and italicized, except where well-recognized and widely used English spellings exist e.g. ‘Jain’ or ‘Shiva’.

² The generally acknowledged site of Homer’s Troy (Hissarlik in Turkey), long thought to be a myth was excavated by Heinrich Schliemann, starting

1871. Major geographical details in the Iliad are also corroborated by modern geological studies e.g., Kraft, J.C., G. Rapp, I. Kayan I and J.V. Luce 2003. "Harbor areas at ancient Troy: Sedimentation and geomorphology complement Homer's Iliad." *Geology* 31, no. 2 (February). 163-166. [https://doi.org/10.1130/0091-7613\(2003\)031%3C0163:HAAATS%3E2.0.CO;2](https://doi.org/10.1130/0091-7613(2003)031%3C0163:HAAATS%3E2.0.CO;2)
- ³ Lal, B.B. 1954–5. "Excavations at Hastinapura and other explorations in the upper Ganga and Sutlej basins, 1950–52. New light on the dark age between the end of the Harappa culture and the early historical period." *Bulletin of the Archaeological Survey of India*, nos. 10 & 11. 6-151.
- ⁴ For example, the Bible mentions that the prophet-general Jehu summoned the 'prophets of Ba'al' to the temple of Ba'al, incidentally reporting the existence of prophets associated with the non-Jewish middle-eastern deity Ba'al. 2 Kings 10:18-28 (King James version).
- ⁵ The word 'Mosaic' is the adjective form of 'Moses.'
- ⁶ Assmann, J. 1996. "The Mosaic distinction: Israel, Egypt and the invention of Paganism." *Representations* 56, (Autumn 1996). 48-67. <https://doi.org/10.2307/2928707>
- ⁷ "...Remembering is an act of constant disowning. Egypt must be remembered in order to know what lies in the past, and what must not be allowed come back. The theme of remembering is therefore central to the Exodus myth and to the constellation of Egypt and Israel. This is not only a myth to be remembered but a myth about remembering, a myth about past and future. It remembers the past in order to win the future. Idolatry means forgetting and regression; monotheism means remembering and progression." Jan Assmann, *Moses the Egyptian*..(Cambridge: Harvard University Press, 1997). p.8.
- ⁸ The Bible, King James Version. Judges 2:3: "Wherefore I also said, I will not drive them out from before you; but they shall be as thorns in your sides, and their gods shall be a snare unto you."
- ⁹ Between God and the devil, and between "true" and "false" religion (*vide* Assmann, J. 1996. "The Mosaic distinction: Israel, Egypt and the invention of Paganism." *Representations* 56, (Autumn 1996). 48-67. <https://doi.org/10.2307/2928707>)
- ¹⁰ The religions that accept Moses as a prophet viz., Judaism, Christianity and Islam.
- ¹¹ Woods, W. 2016. "Jesus Christ has officially been declared the king of Poland." *Christian Today*. November 22, 2016. <http://www.christiantoday.com/article/jesus.christ.has.officially.been.declared.the.king.of.poland/101673.htm>. Accessed May 4, 2020.
- ¹² This clear evangelical mandate underpinned by universalistic claims qualitatively makes both Christianity and Islam distinct from Judaism.
- ¹³ Succession to the Crown Act 2013, Chapter 20, pp.2. http://www.legislation.gov.uk/ukpga/2013/20/pdfs/ukpga_20130020_en.pdf. Accessed May 4, 2020.

- ¹⁴ Thapar writes: 'This (i.e. Mill's – R.S.) periodisation lent support to the colonial argument that the primary identity of Indian society was that of religious communities, generally antagonistic to each other. We have internalised this colonial interpretation of our past at the popular level, and to such a degree that although it has been repeatedly questioned by historians the popular mind-set does not change. By conquering India, the British argued that they had got rid of Islamic tyranny and freed the Hindus, for which the Hindus should be grateful to the British. 'Historians today maintain that the religion of the ruler does not characterise the entire society. There are more fundamental characteristics that determine a period, such as the kind of political economy that prevailed, the social functioning of various groups, and the different ways in which religion related to the elite and to ordinary people and not just to the ruler. Periodisation should be based on substantial change in society and economy and this is now visible from the evidence. Thapar, R. 2012. "Reporting History: Early India." The Lawrence Dana Pinkham Memorial Lecture, delivered at the Asian College of Journalism, Chennai, India (May 3, 2012). http://www.interestingreads.org/wp-content/uploads/2012/05/Romila_Thapar_LDPML2012_Reporting_History__1077328a-11.pdf. Accessed May 4, 2020.
- ¹⁵ Plassart, A. 2008. "James Mill's treatment of religion and the *History of British India*." *History of European Ideas* 34, no.4 (January, 2012). 526-534. <https://doi.org/10.1016/j.histeuroideas.2008.03.001>
- ¹⁶ Ibid.
- ¹⁷ From the first major British victory at the Battle of Plassey (1757) to the Revolt of 1857, Indian territories were directly ruled by the East India Company, not by the British government. It was only in 1858 in the aftermath of the revolt of 1857 that the colonial government was formally transferred from the Company to the Crown.
- ¹⁸ Missionary organizations resented this refusal to permit proselytization in British India. Even the Charter Act of 1813 that permitted missionary presence in India stipulated stringent conditions for the propagation of Christianity. See Gauri Viswanathan, *Masks of Conquest: Literary Study and British Rule in India*. (New Delhi: Oxford University Press, 1998). pp.36-37. Even Queen Victoria's proclamation of 1858 explicitly mentioned the commitment of the confessedly Christian rulers to remain neutral on religious matters insofar as the British Indian empire's administration was concerned.
- ¹⁹ See, for example, Romila Thapar. *Somanatha: The many voices of a history*. (Brooklyn: Verso, 2005). Her analysis is that Mahmud Ghaznavi's invasion of India (1026 C.E.) and his destruction of many temples, prominently the temple of Somanatha on the coast of Gujarat and a major site of Hindu pilgrimage, did not result in a Hindu-Muslim dichotomy. However, it is instructive to note that the Somnath temple continued to be rebuilt by Hindus and destroyed by Muslim kings several times over succeeding centuries. The current temple at the site was built in 1951.

- ²⁰ For example, the famous Buddhist university-monastery complex of Nalanda in the modern Indian State of Bihar started its career under King Kumaragupta of the Gupta dynasty (5th Century C.E.). The Gupta kings were traditional *Astikas* (who affirmed the primacy of the Vedas), whereas Buddhist doctrines are traditionally classified under the *nAstika* category wherein the primacy of the Vedas is denied.
- ²¹ “The Hindu tradition managed to maintain a considerable degree of social harmony by a careful balancing of over-all authoritarianism with local autonomy... In fact, the system was conducive to the existence of various groups. The high value placed on tolerance in Indian thought was not just a pious wish, since, given this social structure, a little bit of tolerance could go a long way in preserving social harmony; more so perhaps than in other societies ... This would also largely explain the striking absence of fanaticism in the Hindu tradition.” Romila Thapar. *Society and Law in the Hindu and Buddhist Traditions, in Ancient Indian Social History Some Interpretations* pp.36-37. (New Delhi: Orient Longman Limited, 1978).
- ²² Initially dubbed ‘semitization’ of Hinduism, but later renamed ‘syndicated Hinduism.’ However, the original statements in context leave one in no doubt that ‘semitization’ was (and still is) meant, because of her unambiguous and repeated reference to the typological dissimilarity of Hinduism vis-à-vis the Mosaic religions in terms of not having a single, unique founder, book, or god. Moreover, the validity of the term ‘syndicated Hinduism’ would reciprocally imply that the Mosaic religions exemplify a ‘syndication’ of a natural religion or part thereof. For ‘semitization’, see Romila Thapar, “A Historical Perspective on the Story of Rama” in *Anatomy of a Confrontation*, ed. S. Gopal. (New Delhi: Viking, 1993), 141-163. She also agrees that ‘syndication’ and ‘semitization’ are quite close e.g. ‘As has been pointed out by many, whereas Hinduism is a religion, Hindutva is an ideology for political mobilization. I have elsewhere referred to Hindutva as Syndicated Hinduism. It draws on the Judeo-Christian religions in terms of hierarchical organizations and attempts to have a creed of belief, which is why some prefer to describe it as the semitization of Hinduism.’ Romila Thapar, “Reflections on nationalism and history” in *On Nationalism*, ed. Romila Thapar, A.G. Noorani and Sadanand Menon. (New Delhi: Aleph Book Company, 2016).
- ²³ For a detailed discussion and analysis of intra-Hindu sectarian conflict, see chapter 2 of Koenraad Elst. *Negationism in India*. (New Delhi: Voice of India, 1992). Also see: Koenraad Elst. “Harsha of Kashmir, a Hindu Iconoclast?” (chapter 4) of *Ayodhya - the case against the temple*. (New Delhi: Voice of India, 2002).
- ²⁴ Incidentally, Mill also felt that the Islamic dispensation in India was an improvement on the Hindu one..

Changing Contours of Sub-Regionalism in North Bengal

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Abstract

The North Bengal region (particularly the hills and Dooars-Terai) has traditionally been a bastion of sub-regionalism in the otherwise ‘homogenized’ state of West Bengal where political aspirations tied to linguistic and ethnic diversities have been fundamental. In the contemporary period when both BJP and TMC are locked in a power-struggle against the backdrop of the 2021 state elections, the North Bengal case provides an interesting opportunity to examine and understand the manner in which rivals BJP and TMC approach and respond to sub-regional assertions. Through a general reference to the various statehood demands (focusing on Gorkhaland demand) which are the prime drivers of sub-regionalism in North Bengal hills, this paper attempts to assess the impact and implication of the growth of BJP on the role, significance and future of sub-regional parties.

Introduction

BJP’s flexibility in blending its nationalistic considerations with regional aspirations is significant for its electoral success in places where (sub)regional assertions of ethnicity and language play a vital political role.¹ Here, political strategies involving ‘plunge into local politics’ and ‘smart political alliance’ consolidated its position in West Bengal.² The tensions arising out of the creative blending of ‘national narrative and regional subtext’ leading to new forms of ethno-political

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mobilizations through social coalitions is essential to examine the (dis)balance between ‘nationalism’ and ‘regionalism’. The 2019 elections consolidated the ‘BJP-led dominant party system’ which caused the regional parties to lose ground.³ Contrary to assumptions of a ‘fragile mandate’ and the view that it would not be able to repeat its performance of 2014, BJP emerged stronger in the Lok Sabha. While expanding its ‘geographic reach’ through ‘social coalition’, BJP also managed to induct politicians from other parties into its fold.⁴ This also led to a transformation in BJP’s image from being viewed primarily as ‘urban upper classes and castes’ towards a ‘ruralization and proletarianization’.⁵

In rural North Bengal both Bharatiya Janata Party (BJP) and Trinamool Congress (TMC), which are ‘national’ parties, have employed strategic alliances with regional parties. Given this backdrop, this paper argues that while BJP puts forward its ‘national agendas’ tempered with (sub)regional aspirations, TMC while retaining its primary focus on sub-regional development⁶ also employs ‘Bengali nationalism’ to counter BJP. Therefore, sub-regional aspirations have to negotiate their claims through alliances with these two conflicting parties. Irrespective of whether BJP or TMC emerge as victorious in 2021 state elections, it is possible that traditionally dominant sub-regional parties in North Bengal hills will have to contend with a transformation in their role.

Accordingly, the paper is divided into four sections. The first section focusing on the Gorkhaland movement discusses various ‘experiments’ in sub-state autonomy in the North Bengal hills which were created in response to statehood demands. With statehood remaining the core issue despite the grant of sub-state autonomy, the next section examines BJP’s strategic ambiguity on statehood which transforms sub-regionalism. From this, the next section examines the potential of this transformation with reference to recent sub-regional debates on illegal migration, National Register of Citizens (NRC) and Citizenship Amendment Act (CAA). This is intended to illustrate how ‘sub-regional’ and ‘national’ issues become intertwined. The final section concludes with the observation that it will be increasingly difficult for sub-regional aspirations to independently negotiate the contesting terrain of BJP-TMC struggle thereby making significant the modes, manner and outcomes of their alliances with larger ‘national’ parties.

I: Experiments in Sub-State Autonomy

In North Bengal, Gorkhaland is one among other demands for the creation of a separate state within the Constitution of India.⁷ However, only in this case ‘autonomous’ councils (distinct from Fifth or Sixth Schedules) have been created as ‘experiments’ in power sharing at sub-state level which are seen in the current Gorkhaland Territorial Administration (GTA) and its predecessor Darjeeling Gorkha Hill Council (DGHC) (1988 to 2011). Despite their formation, the aspiration for statehood remains influential in the sub-region and in the current phase it is spearheaded by Gurung faction of Gorkha Janmukti Morcha (GJM) which is an alliance partner of BJP.

When the tripartite ‘Darjeeling Accord’ was signed in 1988 the Gorkha National Liberation Front (GNLF) agreed to ‘drop’ the demand for a separate state and contest elections for DGHC. In 2005 GNLF demanded conferment of ‘constitutional status’ to DGHC through Sixth Schedule (SS). SS councils were considered more powerful and were vested with legislative powers on specified subjects. Until 2005, application of the SS was not proposed to be extended to any other region apart from Northeast, however, through tripartite negotiations involving the state, Centre and GNLF it was agreed that SS status to the DGHC could be considered. The precedence was set by Bodoland Territorial Council in Assam where SS was accepted even though Schedule Tribe (ST) communities were not in majority (38 percent). Through inclusion of certain ‘safeguards’ for non-tribals, the constitution was accordingly amended. Based on this, in 2005, a ‘sample survey’ by Registrar General of India found that STs constituted 31.4 percent of the total population in the DGHC areas. This paved the way for a second tripartite agreement signed on 6 December 2005. In principle, it was agreed that DGHC be replaced by an ‘autonomous self governing’ council under Sixth Schedule. For non-tribals adequate safeguard protecting ‘existing rights and privilege’ were proposed. This, it was held, would be the ‘full and final settlement’ and ‘no further demands in this regard would be entertained’. Interestingly, it was BJP who objected to the amendment bills in the Lok Sabha in 2007. Since their introduction was carried out without reference to either the Parliamentary Standing Committee (PSC) on Home Affairs, or to the Upper House, BJP held that this was a ‘backdoor’ attempt to pass it. Further, the question as to whether the North Bengal hills qualified for ‘tribal status’ was not answered clearly by the then Left Front and United Progressive Alliance (II) government.⁸ The bill was deferred and sent to the PSC in

December 2007.⁹ The PSC held that the origin of the problem was delay in implementing the 2005 tripartite agreement when Ghising of GNLF was the ‘undisputed leader’.¹⁰

Riding primarily on anti-GNLF wave, including protests against proposal of Sixth Schedule, the Morcha revived the Gorkhaland agitation where it aligned with BJP for 2009 Lok Sabha elections. In 2011 Morcha also settled for GTA with the proviso that it was not ‘dropping’ the statehood demand. However, due to various factors GTA, much like its predecessor, has been seen as inadequate in addressing the political aspirations of the people. This inadequacy was heightened when statehood demand was raised again in 2013 and 2017. While the 2013 agitation was in response to the creation of Telangana, the 2017 agitation, premised initially on protests against the ‘impulsive imposition of Bengali’ by the state government,¹¹ ultimately revived the call for Gorkhaland. The Morcha held that ‘Rajbanshis and Kochs of Cooch Behar have assimilated themselves, adopting Bengali as their language. But Gorkhas have resisted this and have paid the price. As a consequence, Gorkhas of Darjeeling feel that a separate state is the only answer to the problems of identity and discrimination’¹²

During the 2017 agitation all the elected members of the Morcharun GTA resigned which led to significant transformations in the sub-regional political landscape. This was seen when Morcha split into two factions. In the absence of elections following the agitation, GTA is currently run by an appointed head of the state government belonging to the Tamang faction which has aligned with TMC. In 2019 the BJP-Gurung faction won the Darjeeling Lok Sabha seat and Darjeeling assembly seat defeating TMC-Tamang faction candidate indicating that sentiment for statehood was still strong. This sentiment is expected to play a major role in the 2021 state elections which is why BJP is employing a strategic ambiguity on the statehood question not only in the hills but also in Dooars-Terai region of North Bengal where it has dominant regional partners. We now turn to briefly discuss this aspect.

II: Doctrine of Strategic Ambiguity

That there was a base for BJP in the hills was evident in 2004 Lok Sabha elections when the BJP-TMC candidate had received 1,13,972 votes.¹³ Year 2009 saw the victory of BJP in the Darjeeling Parliamentary Constituency with support from Morcha where Jaswant Singh polled 51.50 percent of total votes defeating Left Front. Its 2009 manifesto had reiterated that BJP was in favour of smaller states. BJP

also promised to ‘sympathetically examine and appropriately consider the long pending demands of the Gorkhas, the Adivasis and other people’ of the region. Although the manifesto did not mention separate state specifically, the phrase ‘long pending demand’ was taken to mean statehood. The addendum to the 2014 manifesto once again promised to ‘sympathetically examine and appropriately consider the long-pending demands of the Gorkha’. However, in the addendum, BJP also included promise for a sympathetic consideration of the demands of ‘Kamtapuri, Rajbongshi and other people of North Bengal’. The Kamtapur Peoples’ Party (KPP), which wanted a separate state to be carved in the North Bengal region along with four districts of Assam was also supporting BJP primarily in the tea belts of Jalpaiguri and Alipuduar constituencies. In the hills primarily with support from Morcha the BJP candidate garnered 42.73 percent of votes defeating TMC.

In 2019 BJP again won the Darjeeling Lok Sabha seat including bye-election to Darjeeling assembly seat through similar strategies. Though supported by regional parties, in both the cases the winning candidates fought on a BJP ticket instead of regional parties. The 2019 election was, however, fought amidst a politically charged atmosphere following the failed 2017 Gorkhaland agitation which had witnessed a Morcha split. When it was apparent that a positive response from the Centre was not forthcoming, regional leaders such as Tamang and Thapa of Morcha decided to engage instead with the TMC-led state government ending the impasse generated by 104 days strike that had paralysed the region. This ambiguity of the Central government became a deciding factor for the Morcha split.

In 2019 continuing its alliance with the Gurung faction of Morcha, BJP once again promised to ‘work towards finding a permanent political solution’ and recognize ‘11 left out Indian Gorkha sub-tribes’ as ST. BJP extended its strategic alliance with regional parties by further enlisting support of GNLF, pro-Gorkhaland Communist Party of Revolutionary Marxists (CPRM) and Khati faction of Akhil Bharatiya Gorkha League (ABGL). The BJP candidate Bista eventually won with a huge margin with a total of 7,50,067 votes cast in his favour defeating TMC-Tamang faction. The victory of RSS-backed Bista is significant because the recent years have witnessed a rapid organizational growth of RSS. This groundwork increased the number of shakhas to 1010 by March 2014 along with 10,000 ‘exposure’ camps.¹⁴ With the 2021 assembly elections drawing near, and the number of shakas up to 2900, RSS is in the process of preparing a ‘vision’ document for West Bengal

focusing on 'illegal immigration, Citizenship Amendment Act (CAA), industrialization and job creation'. This vision document is the 'base of the party's campaign' in the forthcoming elections.¹⁵ With a total of 452 shakhas in North Bengal alone, along with ground-level activities concentrating on tea workers' unions and the rights of adivasis, the organizational strength of BJP has certainly expanded.¹⁶ This shows that contest between TMC and BJP will be fierce where regional parties are wedged between the two contenders. It is here that issues of illegal migration and debates on citizenship become relevant for regional actors.

III: Citizenship Debates: NRC, NPR and CAA

One of the outcomes of 1986-1988 Gorkhaland agitation was a 'clarification' which stated that from the commencement of the Constitution all Gorkhas who were domiciled in the territory of India would be citizens of India.¹⁷ However, despite this, questions of citizenship have remained relevant in the political life of the region. It is in this context that issues such as illegal migration, NRC and CAA have emerged as key factors. Accordingly there are primarily three related views with regard to NRC and CAA in the region. First, NRC is believed to be an alternative route (in place of statehood) to permanently settle the issue of 'citizenship' with regard to the Gorkhas in India. The Gurung faction stated that 'for Gorkhas of India, who have been beset with an identity crisis and sometimes perceived as foreigners, it would naturally follow that an NRC would be another step in certifying them as Indians. Enlistment in the NRC will after all, affirm citizenship'.¹⁸ It was held that 'citizenship certificate' at the end of the NRC 'is the need of the hour' adding that 'Gorkhas were labeled as 'foreigners' because of 'lack of this document' and that 'we can now be assured that there will be no more influx of immigrants into our region'. Similarly, ABGL (Khati faction) also supported NRC stating that 'Gorkhas are nationalists and the decision has been taken in the larger interest of the nation' adding that 'true Indian Gorkhas have nothing to fear both the CAA and the NRC'.¹⁹

NRC was also deemed as protection against 'illegal migration' from Bangladesh and Myanmar which had gained center stage when in early May 2018 rumors of a 'Rohingya camp' set up with tacit support from TMC-led state government near Teesta river became public.²⁰ Reacting to this, Gurung faction blamed TMC and held that this was done to 'dilute the population of the Gorkhas and build a loyal vote bank' by providing Rohingyas with identification documents.²¹ Citing

'national security threat' Gurung also wrote to the Prime Minister for action against the 'threat posed by the surreptitious and silent migration of Rohingyas to the sensitive region' and 'put an end to these sinister designs'. Bharatiya Janata Yuva Morcha also alleged that state government 'facilitated the settlement of more than 50 families in Delo, more than 140 families in Lava and about 130 families in Melli'.²² The settlement of Rohingyas, it was held, was aimed towards 'dilution of the population of the Gorkhas and Rajbongshis' thereby weakening demand for 'separate states'.²³

A second view was a conditional implementation of NRC predicated on the declaration of Gorkhas as 'original inhabitant' of the region and 'introduction of the Inner Liner Permit' initially put forward by Tamang faction. This demand also argued that those 'refugees from Bangladesh, Afghanistan and Pakistan that get citizenship' should not be settled in North Bengal.²⁴ Tamang stated that '87.2 per cent of the hill people reside on lease land' and that 'people in the hills don't possess papers to prove their citizenship and would be in trouble if the Centre takes up the NRC update'.²⁵ GNLF also pointed to a family health survey of Central government in 2015 which had found that 28 percent of the population in the hills did not have birth certificates. GNLF's solution was to 'press for the Sixth Schedule and then pressurize the BJP to keep the hills out of the NRC'.²⁶ Similarly, CPRM demanded that CAA have 'provisions to accord Indian citizenship for those Gorkhas who were persecuted in Bhutan and driven out of the country the late 1980s'.²⁷

A third view, put forth by TMC and later supported by Tamang faction was completely opposed NRC and CAA. Before the 2019 elections, Amit Shah held an election rally in Kalimpong on 11 April where he stated that 'Didi keeps telling that Gorkhas will be inconvenienced once the NRC is in place. These are lies. And no one can question them on their citizenship...only those who have faced religious persecution will be granted citizenship'.²⁸ Initially TMC responded by holding that 'NRC is an anti-Bengali exercise. Of the 40 lakh people excluded in Assam, 25 lakh are Bengali speaking Hindus'.²⁹ However, TMC was quick to include the anxieties of citizenship of Gorkhas in its posturing declaring that 'Gorkhas are genuine citizens of India. Nobody can snatch their rights. All ethnic groups in the hills are Indians, no matter which dialect they speak'.³⁰ TMC added that Gorkhas could not be clubbed with those Nepalese citizens that migrated from Nepal as a result of Indo-Nepal Treaty (1950). Banerjee also led a rally

against CAA in Darjeeling³¹ attended by Tamang faction and ‘representatives of various social organisations’ close to TMC.³²

IV: Conclusions

North Bengal region has traditionally been a bastion of sub-regionalism in the otherwise ‘homogenized’ state of West Bengal where political aspirations tied to the linguistic and ethnic diversities of North Bengal have been fundamental. In the contemporary period when both BJP and TMC which are locked in a power-struggle against the backdrop of the 2021 state elections, the North Bengal case becomes interesting to understand the manner in which sub-regionalism is transforming. The strategies discussed above have helped the BJP to emerge as the principal opposition to the ruling TMC sidetracking other parties such as Congress and Left Front. Though or late, TMC too has adopted the strategy of sub-regional alliances developed by BJP in North Bengal. The success of BJP in expanding its regional footprint is primarily due to the linking of sub-regional aspirations with its core national agendas. The TMC too has increasingly relied on Bengali nationalism to counter BJP while reserving notion of ‘development’ for sub-regional aspirations. Sub-regional parties in North Bengal have been traditionally vocal about the demand for separation from West Bengal. Despite this, all parties which have held power in West Bengal – Congress (intermittently from 1950-77), Left Front (1977-2011) and TMC (2011-till date) – have favoured the concept of ‘regional autonomy’ and ‘development’ in place of statehood. BJP has challenged this tradition by promising a ‘permanent political solution’ the contours of which are however not clear. This deliberate and strategic ambiguity has been at the heart of BJP’s success in North Bengal. This ambiguity also attempts to bypass and defer the opposition of state BJP leadership to any favorable declaration towards statehood in North Bengal and instead tends to transform the entire gamut of sub-regional political aspirations into support for national agendas authored by BJP. It is this transformation which attempts to resolve conflicts between ‘regionalism’ and ‘nationalism’.

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Roots of Socialism in the Indian Tradition

Hari K. Sharma*

The idea and philosophy of socialism attracted a numbers of thinkers, philosophers and scholars around the world to comprehendit, investigate it, expand it and modify it to make it relevant for different societies in different times. In order to trace the vestiges' of socialist ideas and practices across cultures and in various societies one needs to go beyond the modern construction of ideas, concepts and ideologies.

There are debates regarding the early communist thought before Marx across territories, cultures and forms. Many different and idealistic notions and practices of socialism were in existence centuries before it took the form of a political system after the success of Bolshevik revolution (1917). It had nothing or little in common with the thoughts and practicesof the communist regimes of the 20th Century, an era when communist ideology was reckoned as one of the most influential ideologies of the world. For example, these 'idealist' and 'Utopian' socialist or communist ideas were scattered across Europe from 14th to 19th century; but were rarely recognized by revolutionary communists. On a closer scrutiny, early communist thought or pre-Marxist communism was found not to be scientifically organized or revolutionary in nature and, was more of a social reformist movement that was close to the idea of socialism. Socialism and communism despite having common roots and belief in having universal control over the means of production and equal distribution took divergent paths for change in later years. Communists were looking for an overthrow of capitalism through a proletariat revolution necessitated by violent means of change,

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while the socialists believe that capitalism can be gradually replaced or modified through incremental and evolutionary changes. Violence as a means of change was largely discarded by socialists due to its inapplicability and wider unacceptability across societies.

In medieval times some of the early Christians can be seen as examples of people who held everything in common. For example German historian Max Beer argued that even if it "may fairly be doubted whether positive communistic institutions really existed amongst the primitive Christian communities . . . there cannot be any doubt that common possessions were looked upon by many of the first Christians as an ideal to be aimed at"¹. (Beer, 1953, as cited in Brown, 2009) In the second half of the fourth century St Ambrose, the Bishop of Milan,professed that, "Nature has poured forth all things for all men, to be held in common. For God commanded all things to be produced so that food should be common to all, and that the earth should be a common possession of all. Nature, therefore, created a common right, but use and habit created private right..."² (Cohn, 2004, as cited in Brown, 2009) Many fourteenth-century Christian theologians, among them the English church reformer John Wycliffe, assumed that the earliest form of human society was one of 'innocence and communism'³.

There are similar examples across territorial spaces where socialist ways were practiced by native and tribal population. The roots of those values and practices can be traced from their value and belief system, traditions, popular societal customs and socio-religious philosophies and practices. India was one such nation where socialism or living in harmony with both fellow human being and nature was not an alien concept; rather it was something that has been part of their socio-cultural beliefs.

The fundamental idea of this paper is to argue the existence of socialist values and practices before it was established and expanded as a political ideology and took the form of a governing system. In case of India its manifestation can be further traced in its ancient texts, scriptures, living practices, governing principles, political thought, concepts and philosophies. Some of the dominant ideas of modern political thought led by M.K. Gandhi, Acharya Vinoba Bhave, Jayaprakash Narayan, Dr. Ram Manohar Lohia, Pt. J.L. Nehru and Pt. Deen Dayal Upadhayay can be seen as a manifestation of the timeless philosophy of community well- being and its harmonious co-existence with the individual, society, state, nature and humanity.

Early Socialist Thought in India:

India is one of the oldest and richest living civilizations. Its vastness, richness coupled with its timeless values guided a number of philosophical schools and religious practices. The idea of modern socialism may not be prevailing in ancient India; but the very values and practices for which it stood for, were the part and parcel of people's daily lives. Since time immemorial the concept of dharma was guiding people's life, society and their political organization.

The impact of living in harmony with all living beings and nature was so profound that even early communist thinker S. A. Dange⁴ has termed the early Vedic years as 'primitive communism'. "He quoted from the Hindu Scriptures and contended that communism in its essential form existed in the Vedic Society, there was no king, no state, no policemen and no punishment; it was a co-operative organisation where the peoples protected each other"⁵. Dange argued that "the Primitive Commune Period can be said to have been ended with the early Vedic Institutes the period of slavery and civilisation to have begun with the Institutes, the early Smriti literature and the Epics"⁶.

The concept of "dharma" that is central to Sanatan Dharma or Hinduisim, Buddhism and Jainism deals extensively both with the individual and the society and strives for the construction of their harmonious balance with nature and the universe. In the cosmos, every entity has a particular dharma, something that is its natural obligation or a duty to be performed in accordance to the same obligation or duties performed by others. The word dharma has multiple meanings depending on the context in which it is used. Monier-Williams' Sanskrit-English Dictionary lists several, including: conduct, duty, right, justice, virtue, morality, religion, religious merit, good work according to a right or rule, etc. Dharma has the Sanskrit root dhri, which means "that which upholds" or "that without which nothing can stand" or "that which maintains the stability and harmony of the universe." Dharma encompasses the natural, innate behavior of things, conduct, duty, law, ethics, virtue, morality etc. Dharma also provides the principles for the harmonious fulfillment of all aspects of life- namely, the acquisition of wealth and power (artha), fulfillment of desires (kama), and liberation (moksha). Religion, then, is only one subset of dharma's scope.

In the Indian religious and philosophical traditions every individual has different dharma according to relations and obligations within the family and the society, in his workplace or whatever he did for his livelihood and in his overall behavior. Even a king has to follow his

dharma. Swami Vivekananda has proclaimed "*Amritasya Putrah Vayam*" means we are all begotten of the immortal or in other words equal in creation. Dharma didn't accept individual as a material being only; rather it is more concerned about its ethical and spiritual self. It fundamentally believes in "*Ajyesthaaso Akanisthaasa Yete, Sam Bhraataro Vaavrudhuh Soubhagaya*"⁷ means no one is superior or inferior; all are brothers; all should strive for the interest of all and progress collectively. The Upanisads teach us that men's true nature is divine. Ethics are an essential component of dharma and harmfulness, truthfulness, absence of the tendency to steal and activity in the direction what are agreeable and good to all the beings form the course of dharma common to all Varnas. Contrary to political ideologies, the concept of Dharma is not narrow, complex, dogmatic or structured; but it encompasses some of the supreme values for which these political ideologies are striving for centuries.

The teachings of Buddha also uphold the same eternal values. His eight fold path is nothing; but noble deeds and living. The right livelihood means that we should always choose a job that does not hurt others. Buddha said, "Do not earn your living by harming others". Similarly, the Right effort connotes that we should always give our best in whatever we do and we should not harm others through our action and prefer such actions that are beneficial for those around us and for ourselves too. The right mindfulness exhorts everybody that we should be aware of our thoughts, words and deeds. We should not possess any bad intention and should realize that good intention leads to good life. Buddha said: The kind of seed sown will produce that kind of fruit. Those who do good will reap good results. Those who do evil will reap evil results. If you carefully plant a good seed, you will joyfully gather good fruit. - Dhammapada⁸ Vedic socialism is another concept that is also reflective of the same values and practices enshrined in the ideology of socialism. Vedas, Upanisads, Smritis, Shrutis, Puranas and the six Darshanas, all contain the guiding principles of a good life. While Vedas are the sacred texts, Dharmashastras were written as guides for the smooth functioning of society. If there was any conflict between the two, Vedas would have to prevail⁹.

In terms of economy India had one of the earliest scholarships in the field of economic management. India's Sarasvati-Sindhu civilization, commonly known as the Indus Valley civilization, existed and flourished in the regions along the now-extinct river Sarasvati and the existing river Sindhu. This prosperous civilization in regions of Punjab, Sindh,

and Gujarat was at its peak between 2300 BCE to 1700 BCE¹⁰. This civilization had a well-organized urban economy with cities which were more scientifically planned than the contemporary Mesopotamian cities¹¹. The above features show that the society had carved out institutional mechanisms for standards, intellectual property rights, and welfare-augmenting economic decision making for city planning. Even prior to this India had continuous existence of social, political and economic life of which very parallel exists¹². The purpose of taxation was also the welfare of the people. Kalidasa, the great Sanskrit playwright had the following to say concerning taxation in his Sanskrit play, Raghuvansham in Chapter 1.18: “The state collects tax for the greater welfare of its citizens in the same way as the sun evaporates water, only to return it manifold in the form of rain.”¹³

The 4th century BCE Indian scholar Kautilya has written one of the most celebrated works, the Arthashastra. Kautilya’s Arthashastra was one of the greatest political books of the ancient world¹⁴. In his work he has outlined an astonishingly vast and detailed bureaucracy that would carry out the functions of the state and manage the economy. Kautilya proposed an elaborate welfare state in domestic politics, something that has been called ‘socialized monarchy’¹⁵ by historian Stanley Wolport. The state owned all the land but leased it to farmers for life, as long as the family was productive, and farmers generally paid about one sixth of their crop in taxes to the state. In addition, the state administered industry, mines, forests and harbours¹⁶. Kautilya has even specified a salary for each official. Unlike even in most modern democracies, Kautilya’s monarch must live a disciplined life and bear lot of responsibilities and by doing so he became probably the world’s first advocate of something like the welfare state. Paternalistic in almost a literal sense, the king “should favor the stricken subjects like a father.” Whereas the king himself, by means of his administration, should maintain, “children, aged persons, and persons in distress when these are helpless,” judges in the kingdom should concern themselves with the affairs of “women, minors, old persons, sick persons, who are helpless even when these do not approach the court”.¹⁷For the last thousands of years these practices are part of individual behavior. Sometimes they were practiced as the duties of the kings or those in power and sometimes as general code of ethics and behavior prevailing in the society.

India follows the footsteps of Swami Vivekananda whose philosophy is diametrically opposite to that of Marx. Marx believes the fundamental

reality consists of matter, but for Swami Vivekananda it is the spirit. Vivekananda believed that “the social evolution is not different from the evolution of the universe. The law of universe operates in society also. As the universe is not static but dynamic, no institution in society is sacred and eternal. The social evolution is based on the principle of rise and fall”¹⁸. He was concerned for uplifting the masses both materially and spiritually and socialism as an experiment could be the way, if it could be reinforced by spirituality.

Communitarian practices and shared living are intrinsic to peoples routine life in India’s tribal and rural areas. They have inherited these old values and traditions that are passing from one generation to the next. People in hilly areas still live in complete harmony with wildlife and nature. Democratic institutions, prioritizing duties over rights and community interests over the individual interests, exploring the common good, following the dharma are some of the ways through which a ‘good’ life on earth can be secured.

Modern Political Ideas and Concepts:

The 19th and 20th centuries hold a special relevance in the history of modern political ideas, institutions and ideologies. Communism, Fascism, and liberal democracies have greatly impacted the political systems around the world. Many newly independent countries have been faced with this tough choice as to what kind of political systems would be best suited to their societies. India was also no exception, and many young and bright minds came in the contact of open and liberal societies of the West. They have closely studied their values and beliefs, societal structure, political processes, institutions and ideologies. They have also come across with the modern version of some of the enduring values such as liberty, freedom, equality, democracy, justice etc.

20th century India encapsulates both the traditional values and systems and their modern interpretations at one place, and throw it open for the people to choose amongst what is most appropriate to the present requirement. Many thinkers such as M.K. Gandhi, J.L. Nehru, Jaya Prakash Narayan, Ram Manohar Lohia, Pandit Deen Dayal Upadhyay etc. have expressed their views about socialism and democracy. Many political concepts such Gandhian socialism, Ramrajya and Sarvodaya, Nehruvian Socialism, Seven Revolutions or SaptKrantī, Antyodaya, Integral Humanism and the most recent addition Sabka Sath Sabka Vikas have many things in common held by the people since ages. The primary purpose of the society and consequently of the

state is to ensure a harmonious living and shared prosperity. The state should ideally have minimal role to play in ensuring the well-being of the people and protecting the social order. Although, by the time conditions conducive to such a living will not be created, the state should bear the responsibilities to ensure the welfare of the people. But, state is not the best suited institution to carry forward redistribution of land and resources and establish an egalitarian society.

Dr. S. Radhakrishnan has beautifully explained the distinction between Marxist idea of world transformation and that of the Hindus. It is true that the world is looking for a transformation in the interest of the poor and the lowly, in its demand for a more equitable distribution of wealth and opportunity, in its insistence on rational equality; it gives us a social message with which all idealists are in agreement. "But our sympathy for the social programme does not necessarily commit us to the Marxist philosophy of life, its authentic conception of ultimate reality, its naturalistic view of a man and its disregard of the sacredness of personality"¹⁹

In terms of socio-political success of socialist ideas and vision, those leaders remained comparatively successful who have viewed and understood socialism more of as a societal value; rather than as a political ideology. In that sense, M.K. Gandhi was a towering personality, who has established the ideals of socialism in subtle way and spearheaded one of the largest movements in human history. Gandhian socialism has a far more overarching influence than J. L. Nehru's state socialism or Marxists and other socialist leaders and thinkers of India. And, probably that is the reason they have felt an urge to give a Gandhian tilt to their socialist views and agenda. Gandhiji was a spiritual man, who was deeply concerned about the well-being of humanity. His views were not reactionary, his ways were not violent and his actions were grounded. He did not derive his concept of socialism from his studies of the writings of Marx, but it was a product of his religious outlook of mind. Gandhiji believed that "true socialism or communism did not come as a result of misuse of capital, but it is rather implicit in the verse of Ishopnishad."²⁰ BhagwatPuran and Gita also gave the same message to the humanity. Gandhi believed, "If we retained possession only of what we needed, no one would be in want and all would live in contentment". He has emphasized to keep a check on one's desires and material possessions. He was a great admirer of the idea of political and economic decentralization and keeping the role of the state minimized. His views about Gram Swaraj, Ram Rajya and trusteeship

have socialist overtones; but his ways such as Asteya, Aparigraha, satyagraha, non-violence, and civil disobedience did not match with means of the Marxists. All his principals were close to ancient Hindu ideals.

Gandhiji agreed with the socialists that so long there are distinctions between the rich and the poor socialism is not possible. However, economic equality doesn't mean that everyone should possess the same amount of material resources; rather it signifies that everyone should have enough to satisfy his needs. Contrary to socialism and Marxism that wants to bring about a structural change; Gandhiji was primarily concerned about the purification of the inner self of an individuals. Probably, this piousness of heart and purity of thought attracted a lot of people towards Gandhi. Revolutionary Marxists failed to make a dent in Indian society because they are not even remotely connected to the Indian ethos and values.

Jaya Prakash Narayan is one of the key figures of the socialist movement in India. After getting influenced by the Gandhian thought, he took an active interest in the Bhoodan movement of Vinoba Bhave. He made a number of tours in rural areas and collecting gifts of land from wealthy and poor alike for distribution to the landless²¹. Jaya Prakash Narayan has realized neither the communists nor the socialists were able to build a mass movement and if there is any "if there is any workable, concrete program for the re- distribution of land, it is Vinoba's. If you go on trying to interpret Bhoodan according to Marxist principles, you will be nowhere"²². In December of 1953 Narayan wrote an article in Janata which was widely reprinted under the title "Ideology of the PSP." In it he argued that Communism and socialism had failed and that the only true revolution was a "revolution in the values of life."

He said that "Gandhism does not concentrate on the capture of power, nor depend on the power of the State, but goes to the people and helps them to affect the revolution in their lives and consequently revolution in the life of the community. . . ."Socialism wishes to advance by setting class against class, Gandhism by cutting across classes, by so bringing the classes together that there are no class distinctions left"²³.

Another pioneering socialist thinker, Dr. Ram Manohar Lohia took the theoretical challenge of transferring the political theory of socialism from Europe to the larger non-European world. "Economics after Marx", despite being incomplete, stands out as Lohia's most important intellectual statement. After his theoretical research and practical

understanding he agrees that India has much to learn from Gandhi's ideas of decentralized economy and cottage industry. "He argued that socialism in societies such as India was living on borrowed time. To him, it drew its economic aims from communism and its general aims from capitalism. Lohia strongly held that the socialist project in India should seek autonomy, both in theory and practice"²⁴.

After a rigorous analysis of the Indian society, "he began to believe that the success of a socialist experiment in India would depend largely on the country's capacity to reconstruct and appropriate Gandhi. Among the wide range of ideas that Gandhi propagated and which Lohia held, two stand out as very important in terms of their revolutionary potential - one, the idea of civil disobedience or satyagraha; and two, the idea of economic and political decentralization"²⁵. Lohia envisioned that "socialism in India, with the principles of economic and political decentralisation at its core, had to be pursued through a long-drawn process of struggle in which ordinary people were the main actors"²⁶. He branded the Nehruvian pursuit of state socialism as 'sarkarisamajvad' and urged his socialist colleagues to keep an ideological and political distance from Nehru²⁷.

Pandit Deen Dayal Upadhyay expressed his views about 'Integral Humanism' in the form of his four lectures delivered in Bombay from April 22-25, 1965. Integral humanism also carries the spirit of the timeless philosophy of Bharat. While explaining the Bharatiya culture he said that the first characteristic of Bharatiya culture is that it looks upon life as an integrated whole.²⁸ "Unity in diversity and the expression of unity in various forms has remained the central thought of Bharatiya culture. If this truth is wholeheartedly accepted then there will not exist any cause for conflict among various powers. Conflict is not a sign of culture of nature: rather it is a symptom of their degradation. The law of the jungle, "Survival of the Fittest" which the West discovered in recent years was known to our philosophers"²⁹. Indian culture didn't believe in competition, class exploitation or class conflict; rather it has deep faith in mutual cooperation that sustains life on earth. Indian civilization is governed by the principals of ethics that are not framed by anyone; but were discovered over the period of time. India sees an organic unity in the individual, in the community and in the society. Society too has its body, mind, intellect and soul. There is no conflict between individual and the society and, it is dharma that sustains the society and the 'Jana Rajya' or the democratic government. He gave numerous examples from the Sanatan texts to validate his points.

Pandit Deen Dayal Upadhyay rejected socialism as it arose as a reaction to capitalism and failed to establish the importance of the human being. "Socialists contented themselves by merely transferring the ownership of capital in the hands of the State. But the State is even more of an impersonal institution. All the business of the State is conducted by rigid rules and regulations. Generally, there is no place for individual discretion and even where such discretion is allowed, the slightest laxity in the sense of duty and social responsibility on the part of the administrator's results in corruption and favouritism"³⁰.

Conclusion

Socialism in the Indian traditions is distinct to the ideology of socialism as propagated in the West. In the West, it is more of an economic and political ideology that opposes concentration of material resources in the hands of a few, talked about common ownership of resources and aims towards an egalitarian society with the help of the state through gradual transformation. On the other hand, socialism in Indian traditions is inclusive of all, essentially non material in nature, based on individual and societal values and practices, and largely didn't rely on the institution of state for its practical existence or success. It comprehends an organic unity among the individual, community, society, state, nature and the cosmos. It is the spiritual power, individual will and mutual understanding that is essential for a harmonious living.

In India socialist and communist ideologies were a limited success and the fundamental reason for that is their poor understanding of the Indian ethos. On the other hand Mahatma Gandhi was immensely popular. Some scholars didn't even consider Gandhi as a socialist; yet they can't deny that he was a mass mobiliser who knows the nerve of Indian society. Gandhian 'means' and his action plan were a huge success and probably that's the reason why many socialists have tried to replicate his means and vision to create a political space for themselves. In India people can't be forced to be socialist and state alone is incapable to implement the socialist policies; until there is a wider acceptability of the idea by the people. Indian philosophy, traditions and culture here hold the key. Interestingly, despite having disagreement with socialism many thinkers or political leaders were socialist by their views.

India's current Prime Minister Narendra Modi's policy of 'Sabka Sath, Sabka Vikas' can also be seen as an extension of the philosophy of Antyodaya and Sarvodaya, which seeks the development of the last

man. All these philosophies epitomize the highest manifestation of the ideals of socialism; albeit in a different manner. Its root lies in Indian culture, traditions, values and dharma.

Notes

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- ³ Ibid. p. 11.
- ⁴ S. A. Dange in his book 'India from Primitive Communism to Slavery' (1979) has traced the roots of primitive communism from India's early Vedic traditions. The book was first published in March, 1949. 5 Kundu, Bibhuti Bhushan, Was India In Primitive Communism In The Early Vedic Period?, *Annals of the Bhandarkar Oriental Research Institute*, 1985, Vol. 66, No. 1/4 (1985), p. 63.
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Populism and Constitutionalism: An Antagonistic Alliance

Aakarsh Banyal* and Riddhi Joshi**

Introduction

The conflict between populism and constitutionalism is almost as old as democracy itself. Political classes vying for power resort to appeasement tactics to cater to the capricious needs of the populace, often at the expense of the health of institutions within the system. One of the manifestations of such democratic erosion can be seen in the rise of populist constitutionalism.

In the course of this article, we outline the global and national experiences in the conflict between Populism and Constitutionalism. Part I lays out the definitions of the terms and the context for the purpose of this discussion. While Part II analyses international trends in this regard, Part III dwells on national instances of this conflict. Finally, we conclude by providing a way forward for India.

Understanding the Terms

Cas Mudde, a political scientist, defined populism as “*a thin-centred ideology that considers society to be ultimately separated into two homogenous and antagonistic camps, ‘the pure people’ versus ‘the corrupt elite.’*” The fallout of such a Manichean distinction is that politics must be an expression of *volonté générale*, or the general Will of the People.¹ Such expression is not confined only to those in government, and is equally available to the opposition as well. A direct consequence, however, is the neglect of minority rights, as populism

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fundamentally gives expression only to the majority sentiment. This also contributes to its tenuous relationship with liberal democracy.²

Conventionally, a populist narrative is woven in the following manner: *Firstly*, the populist defines the ‘people’ as a single, homogenous bloc. *Secondly*, the populist claims to be the real representative of the ‘people’s will’. *Thirdly*, the populist promises the ‘people’ a way out of their vexations with the antagonistic group.³

History can attest to the fact that the easiest way to rally and unite ‘people’ is to present them with an ‘adversary’. The means by which this ‘adversary’, and consequently the ‘people’, is defined sheds light on whether the populist agenda is being forwarded by a left-leaning or right-leaning populist. Left Populism often defines ‘the people’ in relation to social structures and institutions, and alienates those that do not conform to these ideals. Right Populism, on the other hand, stresses on the external threats faced by ‘the people’, such as terrorism and refugees, to reinforce a common identity.⁴

Broadly, there are two overarching approaches to defining the ‘people’ – The ‘inclusionary approach’ and the ‘exclusionary approach’. The inclusionary approach, by definition, is wide and seeks to include the masses. The only ‘adversary’ presented here is the privileged class of society. Such a sweeping definition of the ‘people’ often hints at a left-leaning stance. It intends to tap into the inherent economic divide amongst classes within the community and highlight the stark differences in the resources and opportunities available to the ‘people’ and the ‘elite’. *Per contra*, the exclusionary approach defines the ‘people’ in terms of ‘membership’, i.e., only those with the appropriate ethnic, religious, or racial identity would be considered as part of the ‘people’. Typical of a right-leaning stance, non-members would be those who belong to an opposing ethnicity, religion, or race. Presenting non-members as an ‘enemy’ would therefore achieve the purpose to uniting the ‘people’.⁵

The consequence of such definitions of the ‘people’ is that in forms of Inclusionary Populism, it leads to a vertical (up/down or high/low) separation between the masses at large on the one hand, and the elite on the other hand. In forms of Exclusionary Populism, there is a horizontal separation between members and non-members in terms of identity.⁶

Once it is clear that the populist exercises popular will, (s)he then proceeds to attract the target audience through promises to resolve

specific issues faced by them. Thus, a populist appeal, regardless of where in the world it is made, follows a tacit, universal strategy.

Constitutionalism, on the other hand, is the adherence to a 'fundamental law' and to principles enshrined in it. It limits the scope for arbitrariness, reinforces a system of checks and balances, and safeguards certain inalienable rights.⁷ Participation in representative government ensures accountability and transparency to the people. Lastly, an independent judiciary guarantees an effective redressal mechanism in the event of subversion of Constitutionalism. In any polity, there are a number of stakeholders who play a role in upholding Constitutionalism. It is not only the duty of the three wings of the government to follow the *gründnorm*, but also that of the people themselves to ensure that they abide by the tenets of Constitutionalism. When it comes to the engagement of populism with the Constitutionalism, populists denounce this adherence to Constitutional institutions as they claim that such institutions are obstructions put in place to guard and shelter the authority of the powers that be. Hence, when elected, populists attempt to modify the Constitutional order to reflect their own ideology. This negation by the populists of the extant Constitutional order manifests into 'Populist Constitutionalism'. It is a process by which populists in power attempt to amend the Constitution, and simultaneously institutions within the nation, in order to suit their vision of the nation.⁸

In the context of these outlined definitions, the following sections of the article will reflect on the relationship between populism and Constitutionalism across the world as well as in India. It will also address the consequences of the emergence of populist constitutionalism.

Left/Right Populism: The International Populist Projects

The revival of Left and Right Populism across the globe signals a shift in the nature of modern democracies. In this section, we analyse the manifestation of populism and the consequent degeneration of constitutionalism.

The prime example of Left Populism is the practise of politics in Venezuela. Hugo Chávez held sway in Venezuela from 1999 till 2013, followed by Nicolás Maduro, the incumbent President. Chávez's appeal lay in the fact that he was able to tap into the latent nationalism of the populace, provide an identity to grassroot workers, and mobilise support against the traditional power structures. Once elected, he brought into force a new Constitution, as well as implemented a number of populist reforms that strengthened government control over the financial

institutions, restricted media freedom, and permitted expropriation of unutilised land. These policies, despite having grave socio-economic consequences, are in force even today.

Similarly, in Turkey, President Erdogan unilaterally replaced the Constitution, centralising power in his hands by changing the Parliamentary system to a Presidential one. In addition, the ruling party amended the Constitution to allow the expansion of the Supreme Council of Judges and Constitutional Courts, while appointing supporters as Judges for favourable decisions. This move single-handedly disturbed the system of checks and balances within the nation.

Post the 2010 general elections in Hungary, a new Fundamental Law was enacted, purportedly post extensive popular consultation. At a glance, it becomes clear that the populists in government sought to engineer institutions and systems such that their power is consolidated. For instance, the structure of the Constitutional Court was amended, hindering the independence of the judiciary. Furthermore, the terms of office-holders chosen by the governing party were made unusually long, in some cases 9 years. The experience of Hungary demonstrates that efforts at promoting populist constitutionalism are aimed largely at broadening the mandate of the populists themselves.

The recent Presidential elections in Brazil brought to power Jair Bolsonaro, a symbol of Right Populism. A former army captain, Bolsonaro exploited the effects of rising crime and economic recession to advocate for military dictatorship. While condemning the genocide of indigenous people in his country, Bolsonaro simultaneously loosened gun regulations. His populist rhetoric alienated both women and LGBTIA+ Community. Thus, it can be said that Bolsonaro's leadership permitted the expression of tendencies that are not in consonance with recognised rights and freedoms.

In Western Europe, the refugee crisis brought to the fore identity politics and redistribution of welfare. Member States of the European Union had varying stances on the issue. For example, Viktor Orban of Hungary effectively blocked the settling of refugees in Hungary, a decision which was overwhelmingly supported by his people. Here again, the ruling party amended the Constitution that curtailed the freedom to criticize and allowed Court packing. Similarly, in France in 2017, Presidential candidate Marine Le Pen categorically evinced an anti-immigrants stance. She popularly claimed that she will "protect France" and defend the country against the threat of "savage globalisation".

In the United States, the populist project has been fronted by Donald Trump's successful bid to become the President of the United States of America, which was grounded in his inflammatory rhetoric about "Making America Great Again" and labelling the media as 'True Enemy of the People'. This implied an anti-immigration policy targeting the insecurities of the people about their jobs and safety. His openly racist and sexist approach almost gave license to others to express such sentiments and create a wholly anti-inclusive atmosphere.

All these instances point towards the negative impact of populism on Constitutionalism. Whether it is Venezuela, Turkey or Hungary where the Constitution itself was made the means to curtail freedoms and centralise power, or whether it is France, Brazil or the US in which a determined effort was made to alienate whole sections of people, the victim has been the rule of law in the country and the rights of those residing there.

Left/Right Populism: The Indian Populist Project

In the Indian subcontinent, the tenets of constitutionalism have frequently been subverted by resurging populism. Throughout India's political history, populists have attempted to usher in a new Constitutional order, be it during the left-leaning era of Indira Gandhi or under the current Right-Wing dispensation.

In the 1970s, the dissatisfaction of the 'pure people' with the 'corrupt elite' was at its zenith. Indira Gandhi exploited this divide through her socio-economic policies. Slogans like '*garibi hatao*' were popularised to appeal to the masses. This was subsequently followed by the abolition of privy purses and an ordinance nationalizing fourteen banks. Both these moves were aimed at centralizing power and appeasing the people.

Such populist proclivities caused a tussle between the Executive and the Judiciary as well. When the Apex Court struck down the aforementioned ordinance in *R. C. Cooper v. Union of India*, it was labelled by the government in power as an 'anti-poor' move by the Judiciary. This tension between the Executive and the Judiciary was aggravated when the 24th and 25th Constitutional Amendment Acts together had a nullifying effect on this order of the Supreme Court, thereby restoring validity to the impugned ordinance.

India's only experience with a National Emergency was also at the behest of Indira Gandhi. Dissidents were targeted, and basic rights and freedoms such as freedom of speech and expression and right to life

and personal liberty hinged on the whims and fancies of those in power. The independence of the Judiciary was once again targeted when Justice H.R. Khanna was superseded for the position of Chief Justice of India, post his dissent in the landmark case of *ADM, Jabalpur v. Shivakant Shukla*. Termed by constitutional theorists as the darkest hour in India's Constitutional history, the utter disregard and relapse of liberal democratic principles such as the freedom of speech and expression exacerbated by the interference with the Indian legal system acts as a precedent to tremendous threat Populism has on a liberal democracy.

During Indira Gandhi's tenure, the impact on Constitutionalism in the country was severe. Constitutional values and institutions were severely undermined by the attack on the system of checks and balances and the unbridled exercise of power by the one populist leader with no opposition to speak of.

While Indira Gandhi led the Left Populist programme in India, Narendra Modi is a leader displaying strong overtones of Right-Wing populism. He is being termed a successful populist leaders of the twenty-first century, having relied on religious and nationalist appeasement policies to boost his popularity. The fallout of this has been a sectarian, polarised and communal environment in the country. Such a form of governance is opposed to constitutional values of fraternity and secularism enshrined in the Constitution.

A direct jolt to Constitutionalism has been the enactment of the 103rd Constitutional Amendment which provides for reservation up to 10 per cent to the economically backward sections of the country. This Amendment has been castigated as being a policy of appeasement having no nexus with the actual intent behind the reservation policy which was to apply to social groups who had historically been discriminated against.

In India, religion has become one of the strongest rallying points to divide and unite people. Unfortunately, this has come at the expense of the rule of law. When the Apex Court of the country passed a judgment permitting the entry of women into the Sabarimala temple, it was heralded by some as progressive and a step towards eliminating the discrimination against women. However, a vast section of the people viewed it as an attack on their religion and refused to respect the order and permit its implementation. Such blatant contempt of the Supreme Court could have been possible only in a surcharged atmosphere of populism. Clearly, this instance qualifies as a breakdown of the rule of law and consequently, Constitutionalism.

Most notably, Indian politico-legal sphere has witnessed a significant interface between the Government and the Indian Constitution through amendments to express their populist notions. Government's two recent actions in abrogation of Article 370 in respect of J&K and Citizen's Amendment Act, traverse the time of population. Its popularity in the country has religious overtones and is being protested by a section of the population.

The Right-Wing Populist experience in India has seen the dominance of religious appeals, exclusion of minorities, and policies favouring a religious majority. Only time will tell the extent to which populist ideologies can coexist with constitutional principles in a liberal democracy. However, both the constitutionalism and populism have co-existed in India because of the social and political realities of the country. Healthy populism has had its own positives, like land/property rights bank nationalisation etc. But this has to have a judicial approval and limited.

The Way Forward

The International and Indian experiences discussed above demonstrate how populism can chip away at the democratic principles enshrined in the Constitution. Rather than an abrupt breakdown of Constitutional machinery, populism results in a gradual subversion of widely accepted tenets and institutions, often times against the popular will claimed to be furthered. Historically, populism has rested on the ideologies of those in power and their ability to alter institutions to suit their vision. The unfortunate effect of such alteration could be termed as 'Democratic Backsliding' or 'Democratic Erosion'.⁹

'Democratic Backsliding' poses a major risk to the existing liberal democratic order by permitting the ruling political class to dominate the narrative to the extent that there is no space to accommodate a contrary perspective. For instance, populists in government could curtail freedoms and rights intrinsic to a democracy by ensuring that institutions under their control/aegis are injected with 'anti-liberal ideologies'. This would confer these ideologies with Constitutional protection. The most pertinent thing to note is the relative ease with which Populists in government have been able to interact with the Constitution. The chief reason for the fragility of existing liberal democratic institutions and the Constitution has been pointed out to be the lack of 'Constitutional Embeddedness'. This refers to the extent to which Constitutional values are entrenched in the society and whether these values form the edifice

on which the social, legal and political understanding of the society rests.¹⁰ In *toto*, as pointed out by Blokker, the distance of Constitutional values from the society, and in turn the *(dis)-embeddedness*, makes the populist narrative more acceptable and persuasive.

In India, the earlier left/liberal populism the recent growth of right-wing populism have strained the Constitutionalism so much so that the face of the Indian polity itself could be drastically altered. Currently, it is only the Judiciary that acts as the bulwark of Constitutional democracy in the nation. Judicial innovation such as the Basic Structure Doctrine and the emerging touchstone of Constitutional Morality have prevented the direct attack on any Constitutional value. However, democratic erosion and the failure of a Constitutional Democracy, as mentioned above, is incremental and may perhaps, survive judicial scrutiny of a single Governmental Action but the cumulative effect of several such actions may lead to a substantial subversion of Constitutional values.

A feasible solution is the emergence of a Constitutional culture. Such a culture refers to a fluid and inclusive concept where the Constitution values are Socially Embedded in the citizenry, where there is an effective recognition of the Constitution as the *gründnorm* that governs and legitimately limits the Government's power. Furthermore, it shall be subject to change under circumstances however, in the absence of such a change, the citizenry is bound by the written document. It entails an understanding that a Constitution acts as a unifying force that governs everyone and cuts across classifications based on religion, caste, creed etc.

In order to effectuate such a change, there is a need to espouse the 4E's- Empowerment, Education, Engagement, and Equilibrium.

The people must Engage with the political discourse to prevent its hijacking. This must be done in tandem with encouraging political Education, which is presently at woefully low levels. A politically educated people would enable increased participation and engagement. Further, it falls upon the judiciary to Empower the classes and safeguard Constitutionalism against the threat posed by unbridled Populism. Lastly, it would be unrealistic to propose an end to all populist discourse. Oftentimes, democracy is fuelled and furthered by healthy populism. It is only the extreme forms of this narrative that tend to threaten the very foundations of democracy. Thus, an Equilibrium would have to be maintained to control the growing tendency of demagoguery while ensuring the sustenance of Constitutional principles.

This collective interaction between government institutions and the citizenry to recognize, accept and promote constitutional values will lead to a stronger Constitutional Culture in the country, according to paramount reverence to the Constitution, thus making it immune to transgressions.

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The Role of Matrimonial Statutes and Judicial Precedent in Empowering Muslim Women: In the Context of Recent Reforms in India and Abroad

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Abstract

Islam is perhaps the first religion which has given women the rightful place in the society of man, acknowledging her as a respectful entity and a personality unto herself due to Islamic reforms through the Quran and the authentic Hadith of the Prophet Muhammad between 610 and 632A.D. However, the situation did not last long, Muslim women are not considered a homogeneous group with their own vertical and horizontal divisions due to customary laws, the region and sect to which they belong, and the traditional school of Islamic jurisprudence. But, in contemporary Muslim countries, governments’ desire for legal modernization, combined with the need to show respect for the Shariat (Islamic law), has resulted in several significant reforms. In the era of personal status, a number of reforms, by and large have been enacted in Muslim countries with a view to improving the status of women and empowering them in respect of their matrimonial rights. Subsequently, in India, the first major changes in Muslim law happened after the case of Shah Bano (1985) and ShayaraBano (2017) which respectively led to the Muslim Women(Protection of Rights on Divorce) Act, 1986 and The Muslim Women (Protection of Rights on Marriage) Act, 2019. This paper attempts to analyze how matrimonial laws and litigations

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have been improving the status of women and empowered them in respect of their matrimonial rights in India and abroad.

Keywords: Muslim Women, Matrimonial Statutes, Reforms, Empowerment, Litigations

I. Introduction

Islam means ‘submission to the will of God’ and in secular sense Islam means the ‘establishment of peace’(Ahmad, 2016). Islam is perhaps the first religion which has given women the rightful place in the society as a human being. Perhaps because Islam originated in the Arabian Peninsula, there exists a popular belief that most Muslims are of Arab descent. On the contrary, only 15% of Muslims are Arabs; the largest Muslim population exists in Indonesia, followed by Pakistan, India, Bangladesh, Turkey, Egypt and Nigeria. Muslim populations span the globe, and are found in minority- and majority-Muslim communities. The authoritative centre of Islamic law resides in the Quran and the Hadith. The Quran and Hadith have always upheld the rights of Muslim women. The rights of women as given in the Quran and the traditions of Prophet Muhammad were a revolutionary step in the 7th century Arabia. Due to these Islamic reforms, between 610 and 632 A.D. Muslim women gained unparalleled rights. In fact, Muslim women enjoyed more rights than women in any other society until the liberation of women in the western world. The Quran, the principal authority for all Islamic rules and regulations, put women on an almost equal footing with their male counterparts, and the rights conferred on Muslim women by the Quran were supported and supplemented by the authentic Hadith of the Prophet Muhammad (Syed, 2004). It is within this context that Islam has granted women all essential matrimonial rights through Quran and Hadith. To protect these rights from being abused by men, Islam provided ūrm legal safeguards (Jawad, 1998). However, such situation did not last long, Muslim women in the Islamic world are a heterogeneous group having their own vertical and horizontal divisions by virtue of the economic and socio-cultural class, region and sect that they belong to, and traditional school of Islamic jurisprudence and customary laws that they are governed by (Ansari, 1991). But, in contemporary Muslim countries, governments’ desire for legal modernization, combined with the need to show respect for the Shariat (Islamic law), has resulted in several significant reforms. In the era of personal status, a number of reforms, by and large have been enacted in Muslim countries in general and India in particular with a view to

improving the status of women and empowering them in respect of their matrimonial rights (Engineer & Kidwai, 2019).

II. The Role of Matrimonial Statutes and Litigations in Empowering Muslim Women in India

Muslim personal law in India has its roots in colonial politics. The Muslims in India were already observing local customary laws in a diversified manner, according to their regional practices, or according to their individual sects, but the then British administrators in a quest to have a uniform legal procedure which would be common to a group of sects with common identity as “Muslims”, and which would be useful for solving land entitlement issues, wealth successions, etc., (Fyzee, 2008) under a common legal system, tried to translate a few important religious texts into English, and forged the laws somewhat based on these holy texts. The Muslim Personal Law (Shariat) Application Act or Act xxvi of 1937 was enacted by the British government in India, as a part of the Government of India Act, 1935. (Agnes, 1999). This “scriptural” approach to making laws has had a long-term adverse impact on Muslim identity politics - the fundamentalist groups rallied around this new identity; the Deoband movement also used the shariat laws as a tool to organize Muslims; and later this law has become a base for laws in Pakistan and Bangladesh. To oppose any reforms in these laws, the fundamentalist political Muslim groups like the Muslim League and others called these as “*shariat-based*” and hence “divine”, and fanned the passions of common Muslim masses to gain support against any changes (Patel, 2009). Until 1939 the British rulers of India had not undertaken any substantive legislation in the area of Muslim law. The only substantive law enacted for the Muslims before independence was the Dissolution of Muslim Marriage Act 1939 relating to women’s right to seek divorce through the court. This Act may be regarded as a landmark in respect of matrimonial relief and empowering a Muslim wife (R.K. Sinha, 2006).

Recent reforms in Muslim Personal Law after Independence: The journey from ShahBano to ShayaraBano

Like all personal laws, Hindu, Parsi or Christian, Muslim personal laws also contain several provisions, which continue to be, discriminatory against women. The journey of Muslim women from the case of *Shah Bano* to *ShayaraBano*, are illustrative of this discrimination.

As regards maintenance, the Muslim personal law limits the husband's liability to provide for maintenance to a divorced wife up to the *iddat* period only. However, in the decision of *Mohd. Ahmed Khan vs. Shah Bano Begum*, AIR 1985 SC 945, which proved to be a critical milestone in the history of Muslim Law and also this country, this concept was challenged by holding that "If the divorced Muslim woman is able to maintain herself, the husband's liability ceases with the expiration of the period of *iddat*. However it would be incorrect and unjust to extend the above principle of Muslim Law to the cases in which divorced wife is unable to maintain herself. Hence, if she is unable to maintain herself after the period of *iddat*, she is entitled to file application for maintenance u/s 125 of Cr.P.C. like women of any other religion."

The above observations of the Supreme Court created an uproar and were criticized as an encroachment on Muslim personal laws. The Government hence enacted 'The Muslim Women (Protection of Rights on Divorce) Act 1986', to again limit the rights of Muslim women to get maintenance up to the period of *Iddat* only (Mulla, 2017). Section 3 of the Act specifically provided that "divorced Muslim women are entitled to a reasonable and fair provision of maintenance to be made and paid to her within *iddat* period for herself and for her minor children by her former husband". However, when this Section came for interpretation before the Full Bench of Bombay High Court in the case of *Karim Abdul Rehman Shaikh vs. Shehanaz Karim Shaikh*, 2000 (5) BOM C.R. 758 and thereafter before the Supreme Court in the case of *Daniel Latifi vs. Union of India* (2001) 7 SCC 740, it was categorically held that, "Husband's liability to pay maintenance to a divorced wife ceases the moment *iddat* period is over, but he has to make reasonable and fair provision for her within *iddat* period which should take care of her for the rest of her life or until she gets married again." It was further held that, "the word 'within' used in S.3(1)(a) would mean 'on or before' and therefore before the expiration of *iddat* period the husband is bound to pay maintenance to the wife and if he fails to do so, then the wife is entitled to recover it by filing an application as provided u/s. 3 (3), as nowhere parliament has provided that the reasonable and fair provision is limited only for *iddat* period and not beyond it. Hence it would extend to her whole life unless she gets remarried." It was held that, "while deciding the amount, regard shall be paid to the needs of the divorced woman, the standard of life enjoyed by her during her marriage, the means of her husband and similar circumstances. If the

husband is unable to arrange for such lump-sum payment, he can ask for paying the amount as installments and the court shall consider granting him permission for the same." It was further held that, "till the husband makes fair and reasonable provision, the magistrate may direct monthly payment to the wife even beyond the *iddat* period subject to the fixation of the amount of fair and reasonable provision." Thus through its innovative and ingenious interpretation, the Judiciary has ensured that Muslim women's right to get maintenance even beyond the period of *iddat*, which was taken away by the legislature, is restored to them.

As regards the right of Muslim women to get maintenance for minor children, which was limited by the Act, up to two years of children's age, was expanded by the Supreme Court, in the case of *Noor Saba Khatoon vs. Mohd. Quasim*, AIR 1997 SC 3280 by holding that, section 3(1) (b) of the 1986 Act does not in any way affect the rights of the minor children of divorced Muslim parents to claim maintenance from their father u/s 125, Cr. P.C. till they attain majority or are able to maintain themselves, and in case of girls, till they are married. Thus by way of progressive interpretation, the judiciary has removed hurdles created by the legislature and retained Muslim women's right to get maintenance for herself and her children beyond the period of *iddat*.

As regards the practice of oral *triple talaq* also, much before the legislature enacted the law, prohibiting the same and making it an offence punishable with imprisonment, the judiciary put lot of restrictions on the said practice. In the landmark decision of *Dagadu Chotu Pathan vs. Rahimbi Dagdu Pathan*, 2003 Bom. C.R. (Cri) 251 the full bench of Bombay High Court held that, "*Talaq* must be for reasonable cause and it should be preceded by attempts at reconciliation between husband and wife by the arbitrators, one from the wife's family and the other from the husband. If the attempts failed, *Talaq* may be affected." It was held that "attempts at reconciliation by the two relations, one from each of the parties are an essential condition precedent to *Talaq*". In the case of *Shamim Aara vs. State of U.P.* 2003 Bom CR (Cri) SC 662 it was further held that, "mere statement made in writing before the Court in any form or in oral deposition regarding *Talaq* having been pronounced some times in the past is not sufficient to hold that the husband divorced his wife. Merely taking plea of divorce is also not sufficient. The fact of divorce has to be proved by leading cogent evidence as per law. By relying upon the observations of Justice Krishna

Iyer, it was held that, “the interpretation of a legislation which is intended to protect the weaker section of the community, like women, must further the beneficent object. This is the governing principle of the Islamic law that the liability of husband to pay maintenance to his wife does not come to an end unless there is valid *talaq*”. Ultimately it was the decision of the Supreme Court in *Shayara Banuvs Union of India* (2017) 9 SCC 1, holding the practice of oral *tripal talaq* as unconstitutional and directing the legislature to make suitable law for the same, which led to passing of ‘The Muslim Women (Protection of Rights on Marriage) Act, 2019’. The main objective of the Muslim Women (Protection of Rights on Marriage) Act 2019 to protect the rights of married Muslim women and to prohibit divorce by pronouncing *talaq* by their husbands and to provide for matters connected therewith or incidental thereto. This Act has declared the practice of instant triple *talaq* illegal and void and has also laid down that any husband indulging in such practice would be liable to be punished with imprisonment up to 3 years. The offence under the Act is cognizable, non-bailable and compoundable at the instance of a Muslim woman who is the victim of *triple-talaq*. A subsistence allowance is to be paid by the husband to the wife, taking into consideration the dependent child/children if any, as determined by the Magistrate. The custody of the minor child/children if any remains with the Muslim woman. No bail application is to be entertained until the woman on whom the *talaq* has been pronounced, is heard.

III. The Role of Matrimonial Statutes and Litigations in Empowering Women in Contemporary Muslim World

In the contemporary Muslim countries the desire on the part of the government for legal modernization combined with the need to show respect for the *Shariat* has resulted in various significant reforms. In the area of personal status, a number of reforms, by and large have been enacted in Muslim countries with a view to improving the status of women in matters of Matrimonial rights.

Matrimonial Statutes Reform in Turkey

The first step towards Muslim family law reforms was taken in the Turkey-based Ottoman Empire in 1915 when a Royal Decree was issued to regulate certain aspects of Muslim marriage law. Two years later came the Ottoman Law of Family Rights drawn on traditional legal sources but with some significant reforms. It was extended to

most Muslim countries which were then part of the empire. After the fall of the Ottoman empire following World War I the Turkish government commissioned a group of jurists to prepare a modern code of Muslim personal law drawn on Islamic sources but, as they failed to reach consensus for several years even on basic principles, it desperately enforced in 1926 a Turkish Civil Code on the Swiss model but accommodating a few Islamic principles. In 1951 the Turkish Civil Code was partly adopted in Cyprus under the title the Turkish Family Marriage and Divorce Act 1951 (Anderson, 1970).

Egyptian Initiatives and Matrimonial Statutes

After Turkey turned to Europe to pursue the path of legal modernism, the centre of legal reform in the Arab world shifted to Egypt where piecemeal reforms began in 1920 with a brief law reforming some aspects of women’s rights to maintenance and divorce. Another law dealing marriage- age was enacted in 1923, and then came a more detailed law in 1925 covering resolution of family disputes and dissolution of marriage. During 1943-46 Egypt codified Muslim laws of intestate and testamentary succession. In 1979 the first two laws of 1920-25 were drastically amended by a law which popularly came to be known as the Jihan Sadat Law. Suffering from some procedural deficiencies, it was struck down by the country’s Supreme Court in 1985 but was soon re-enacted after meeting the necessary technical requirements (Sharmani, 2007).

Matrimonial Statutes Reform in Rest of West Asia

During 1951-1962 the Ottoman Law of Family Rights referred to above was replaced with new national laws in Jordan, Syria and Lebanon. In 1975-76 the Syrian Law of Personal Status 1953 was subjected to major amendments, and the Jordanian Law of Family Rights 1951 was replaced with a more comprehensive law called the Law of Personal Status 1979. In Lebanon the Law of Family Rights 1962 was significantly amended in the later year. In Iran a modern Law of Personal Status was enacted in 1959 and was amended four years later to abandon the new inheritance regime it had introduced which had created a political turmoil. In 1987 and 2000 the 1959 Code was drastically revised and later supplemented with a number of Decrees to introduce some reforms. While South Yemen adopted a new Family Law in 1974, North Yemen enacted new Family and Inheritance Laws during 1976-1978. After the reunification of the country all these laws were replaced with

a common Republican Decree on Personal Status 1992[amended in 1998-99].In the Gulf region, Kuwait amended the law of inheritance in 1971 and thirteen years later a comprehensive law titled Code of Personal Status 1984[amended in 2004]. The Sultanate of Oman codified the Muslim family law by an Amiri Decree issued in 1997. The United Arab Emirates did the same in 2005; and Qatar and Bahrain followed suit in 2006 and 2009 respectively.In Iran the only non-Arab country in the region and seat of the Shia IthnaAshari School, two Family Protection Laws had been enacted in 1967 and 1975 introducing some major reforms in family law. Both were rendered ineffective after the Islamic Revolution and eventually repealed in 2008 (Engineer & Kidwai, 2019).

Reforms in African States

In the North Africa Arab Region Tunisia was the first country to codify, during 1956-58, its laws on family relations and inheritance with some major reforms. In its neighbourhood, Morocco enacted a Code of Personal Status and inheritance in 1958, while Algeria enforced a similar Code in 1984. The same years Libya adopted a comprehensive Law of Marriage and Divorce and later supplemented it with two anti-bigamy decrees. While Mauritania enacted a Code of Personal Status in 2001, Morocco almost rewrote its 1958 Code in 2004.Elsewhere in Africa, personal law has been codified in Somalia and Sudan. The former country adopted a Family Law Code in 1975. Sudan had been following since 1916 a different law reform system under which the Chief Muslim Law Judge of the country used to issue from time to time judicial proclamations to amend time-worn rules of family law. A Muslim Personal Law Act based mainly on traditional principles was enforced there in 1991(Engineer & Kidwai, 2019).

Reforms in Southeast Asia

The most populous Muslim country of the World, Indonesia, enacted a new Marriage Law in 1974 imposing State control on bigamy and divorce. Statutory regulations were issued with it for its effective implementation. In Malaysia the Federal Legislature had enacted an Islamic Family Law Act in 1984 which was later locally reenacted in all the thirteen states. Similar laws were enacted in Bureau Dar-us-Salam and Singapore. The Philippines enacted a comprehensive Code of Muslim Law in 1977 on the basis of a draft prepared by a Muslim Jurists Commission. In Singapore the

Administration of Muslim Law Act, originally enacted in 1966 and last revised in 2009, is drawn on the pattern of similar laws in force in Malaysia(Steiner, 2012).

Reforms in South Asia

In Sri Lanka the matrimonial law for the Muslims was codified in 1951 under the Muslim Marriage and Divorce Act 1951. The bulky Act was repeatedly amended in later years. In Pakistan, based on the recommendations of a marriage Commission constituted by the government to recommend measures for controlling the growing menace of bigamy and divorce, a short law called the Muslim Family Laws Ordinance was enforced in 1961. It subjected both polygamy and divorce to state control and amended the law of inheritance. Bangladesh, after its independence from Pakistan, retained the 1961 Ordinance in force, adapted it to its administrative system, and later amended it by the Muslim Marriage and Divorce Registration Act 1974(Carrol, 1981).

Recent Reforms in Matrimonial statutes in Muslim Countries and role of Matrimonial Litigations in Empowering Muslim women

Personal law enactments of several Muslim countries now prescribe the minimum age for marriage and most of these, discarding the rule of puberty, have fixed a higher age (Stilt, et. all, 2018).

In Egypt, Iraq, Jordan, Malaysia, Morocco, Somalia, Turkey and UAE the minimum age of marriage for both boys and girls is eighteen years- while in Algeria it is nineteen and in Libya twenty years for both. In Lebanon, Syria and Tunisia a girl is permitted to get married on completing the age of seventeen years. However, in some countries marriage can be allowed by the court at a lower age as an exceptional case, generally with the consent of the marriage- guardian. Prior consent of the court is necessary in some countries also where there is an unusual age difference between the parties (Bowden, 2013).

In Egypt, Iraq, Jordan, Kuwait, Lebanon, Morocco, Sudan and Syria, unilateral talaq is not effective if pronounced by a husband who is drunk, insane, imbecile, provoked, shocked, depressed, ill, uncontrollably angry, in sleep, or under duress-nor if it is used as an inducement, threat or vow, or is implied in an ambiguous or metaphorical expression. The laws in Egypt, Iraq, Jordan, Kuwait, Morocco, Philippines, Sudan, Syria, UAE and Yemen, have totally, derecognized the concept of triple talaq- in all these countries every talaq (even if

repeated thrice or qualified with the word “three”) effects only a single revocable divorce leaving room for its revocation during the wife’s iddat and, failing that, for renewal of remarriages any time with her consent. The so-called device of halala for legalizing remarriage of the parties, which requires wife’s intervening marriage to someone else followed by divorce from him, also stands abolished in all these countries. In Algeria, Indonesia, Iraq, Jordan, Malaysia, Somalia, Syria, Tunisia and Yemen a talaq can be affected by a husband only with the prior permission of or through intervention of the court. In Morocco an elaborate procedure and some stringent conditions have been newly laid down for obtaining court’s permission for divorce (Schlatter, 2013).

In Pakistan and Bangladesh, it requires the man who wishes to divorce his wife to give the ‘arbitration council’ a written notice of his having done so, and supply a copy of the same to his wife. In Pakistan, triple talaq was abolished when it issued its Muslim Family Law Ordinance in 1961, according to Geo News. In Afghanistan, divorce through three pronouncements made in only one sitting is considered to be invalid. Sri Lanka’s Marriage and Divorce (Muslim) Act, 1951, as amended up to 2006, banned triple talaq. Hence, the Muslim countries where instant talaq is banned are Turkey, Cyprus, Tunisia, Algeria, Afghanistan, Malaysia, Jordan, Egypt, Iran, Iraq, Brunei, the UAE, Indonesia, Libya, Sudan, Lebanon, Saudi Arabia, Morocco, Kuwait, Pakistan and Bangladesh (Mahmood, 2019).

A woman who has been arbitrarily divorced by her husband may be awarded by the court compensation in the form of maintenance for at least one year in Jordan, Kuwait and Yemen; two years in Egypt and Iraq, and three years in Qatar and Syria. In Jordan the Shariah Court of Appeal has decided that every talaq by the husband will be presumed to be arbitrary unless proved by him otherwise-judicial degree No 19859 and 20245, SCA, Al-Qarar-Ul-Qazayiah (1990). In Algeria, Malaysia, Mauritania, Morocco, Oman, Sudan and UAE a woman divorced by her husband arbitrarily or without a valid reason is entitled to compensation to be fixed by the court (Mahmood, Family Law Reform in The Muslim World, 1972).

Moreover, polygamous marriage reformed by several countries which also means to improving the status of women under Islamic law.

Turkey was the first Muslim country to legally ban polygamy under the Civil Code of 1926 and made punishable in law. Tunisia too bigamy is absolutely prohibited and is an offence punishable under the Code of Personal Status 1956. The following Muslim countries restrict the

practice of polygamy such as Egypt, Sudan, Algeria, Jordan, Syria, Morocco, Bangladesh, Pakistan, Iran, Iraq, Kuwait, and Lebanon.

In Iraq, Morocco, Syria and Somalia a married man wanting to marry again must obtain prior permission of the court which can be given on specified grounds and subject to specified conditions. In Morocco stringent conditions have been newly laid down in 2004 for granting permission for bigamy. In some Arab countries, including Mauritania, legislation specifically recognizes the right of every woman to stipulate at the time of marriage against her husband’s possible second marriage while she remains his wife, violation of the stipulation entitling her to seek divorce and compensation.

In Indonesia and Malaysia prior permission of the court is mandatory for contracting a bigamous marriage under the law which specifies the conditions subject to which such permission can be given. In Malaysia the wife’s rights to bar a bigamous marriage under an agreement is recognized by the law and has been enforced by the courts. (Naik, 2017).

In Pakistan and Bangladesh under the Muslim Family Laws Ordinance 1961 a married man wanting to marry again has to notify his intention to as local government officials who will constitute an Arbitration Council consisting of himself (in chair) and one nominee each of the parties. The desired permission may be given only on some specified grounds and after making a proper inquiry (*Fahimuddin vs. Sabeeha Begum*, 1991).

In Muslim minority countries like Philippines and Sri Lanka also a married Muslim man wanting to marry again has to notify his intention to government officials or Kazis’ court which have to arrange arbitration proceeding before allowing him to go ahead. In Singapore the law makes prior permission of the court mandatory for a married Muslim man who wants to marry again and specifies the conditions on which such permission can be given. The courts have held that the test to be applied for this purpose is to be objective and not subjective (Mahmood, 2019).

IV. Conclusion

The discussion clearly showed that modern reforms have made polygynous marriages difficult or illegal; permitted wives to sue for divorce in religious courts, particularly in cases of cruelty, desertion, or dangerous contagious diseases; provided women with the right to contract themselves in marriage; required husbands to find housing for

a divorced wife while she has custody over the children; increased the minimum age for spouses; limited the ability of guardians to contract women in marriage against their wishes; provided opportunities for minor girls wed against their wishes to abrogate the marriage upon reaching majority; enhanced the rights of women with regard to child custody; and allowed women to write clauses into marriage contracts that limit the husband's authority over them. However, any real improvement concerning the empowerment of Muslim women in the Islamic countries cannot be attained exclusively through constant legislative reforms. Today, Muslim women all over the Islamic countries face several challenges due to the strong influence and impact of westernization making it more difficult for them to realize their aspirations and desires to live in a liberal modern world. Hence, in order to bring a change, Islamic feminism and parallel changes in societal attitudes are as important as legal reforms. Muslim women must be conscious of their rights granted by Quran and Hadith. It is, therefore, imperative for Muslim societies to reform women's rights through hermeneutic-relativist approach representing changing time and cultural context to give women a sense of empowerment within Muslim societies (Orakzai, 2014).

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The 'Profession' of Prostitution: Claiming Dignity in/through *No Apology: The Autobiography of a Sex Worker* by Nalini Jameela

Dr. Garima Gupta*

Prostitution has been the underbelly of social reality ever since the humans began to organize themselves into defined social, institutional and regulated modes of living. In India, the mention of the practice goes as far back as the Rig Veda. Kane in the *History of the Dharma Shastra* Chapter 16 says as follows:

From the Rig Veda we find that there were women who were common to several men i.e. who were courtesans or prostitutes. In Rig. I.167.4 the bright Maruts (storm gods) are said to have become associated with the young (lightning), just as men become associated with a young courtesan. It has already been seen how in Rig. II.29.1 reference is made to a woman who gives birth in secret to a child and leaves it aside. In Rig. I.66.4 and I.117.18, 1.134.3 and other places *jāra* (paramour or secret lover) is spoken of.

In the Mahābharata courtesans are an established institution. The *Adi-parva* (115.39) narrates how a *veśya* waited upon Dhritarastra when his wife Gandharī was pregnant. In the *Udyoga-parva* (30.38) Yudhisthira sends greetings to the *veśyas* of the Kauravas. Courtesans are described as going out to welcome Kṛṣṇa when he came on a mission of peace to the Kaurava court (*Udyoga* 86.15). When the Pāṇḍava armies are described as about to start for battle it is said that carts, markets and courtesans also accompanied them (*Udyoga* 151.58).

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Nārada (*vetanasyānapākarma* 18) lays down that if a public woman after getting her fee refuses to receive the customer, she shall pay twice the amount of the fee and the same fine shall be imposed on a man who does not pay the (stipulated) fee, after having had intercourse with a *veśya*. Vide Yaj. II.292 and Matsya-Purāṇa 227.144-145 for similar provisions. (Sivan, quora.com)

The Matsya-purāṇa chap.70 dilates upon *veśya*-dharma. The Kāma-sutra I.3.20 defines a *gaṇika* as a *veśya* who is most accomplished and proficient in the 64 kalās, Aparārka (p.800, on Yaj. II.198) quotes Nārada (cited above) and several verses of the Matsya-Purāṇa about *veśyas*. In ancient India, thus, the courtesans were regarded as an urban institution and constituted an important part of the Indian society, giving an impetus to the arts and the life of luxury. The courtesans did not only serve the basic needs of the society, they were also a symbol of culture and *ars amoris*. The patronage and life of luxury and distinction continued through the medieval to the Mughal period that witnessed a flourishing *Tawaif* culture. Though they always lived on the fringes of the society and could never be part of a respectable household, their existence was acknowledged as part of the social set up and they were given their due. In fact, the practice was recognized as a commercial enterprise and Kautilya's *Arthashastra* in its different sections describes Brothel Management, Recruitment of Prostitutes, Financials regarding Brothels and Punishments for Prostitutes if they break certain laws. However, with the advent of the British, the entire code for this practice changed and it gradually degraded to flesh trade and the women involved in it were reduced to a sub human existence where the very acknowledgement of their being began to be perceived as a moral blot on the society.

From a society that showed its acceptance in rituals like getting the mud from the brothel to complete the idol of Maa Durga to today when it is seen as an immoral flesh trade, the narrative from a prostitute herself has given the society a much needed mirror to view its moral hypocrisy. *No Apology: The Autobiography of a Sex Worker* by Nalini Jameela gives an insider view of the world of prostitution as it is today. She is a sex worker but has written her autobiography not as a victim book but rather as a woman unveiling different facets of her life: as a daughter, as a wife, as a mother, and, above all as an independent woman and a survivor. Her autobiography gives voice to the invisible sex workers and through it she shuns all the notions of patriarchy that belittle it as a fallen woman's occupation. The very fact, that she includes

the phrase 'No Apology' as part of her title reveals that she is unashamed of being a prostitute. She wrote her autobiography *Oru Laingikatozhilaliyute Atmakatha* in 2005 which was published in Malayalam. Her autobiography was translated into English by J. Devika in 2007. However, it soon garnered controversy as M.Mukundan, one of Kerala's literary figures condemned the book as a 'prurient money spinner'. Further, the book was denounced as a victim narrative by the neoliberal reformers whereas the liberals read agency in the text. In the very title, Nalini "...calls herself a *laingikatozhilali*, a sex worker, claiming the dignity of *tozhil*, a word that can mean both 'labour' and 'profession' in Malayalam". (xiii-xiv) The Sex Worker's Manifesto also makes this point: Our stories are not fundamentally different from the labourer from Bihar who pulls a rickshaw in Calcutta or the worker from Calcutta who works part time in a factory in Bombay. Women take-up prostitution for the same reason as men take up any livelihood option available to them". (222-25)

That Nalini Jameela chooses a description that defines her in terms of workforce rather than constructs of womanhood and the albatross of honour it carries, in itself leads the reader to see the text as a voice of a human rather than a woman though the condition of her existence is dictated by her gender. The autobiography can be seen as the story of how a young girl, who had at the age of nine, realized the importance of money and the power and dignity it lends, had to give up all her dignity for the sole reason of earning money for her children since her mother-in-law demanded money in exchange for the good upbringing of her children.

It was the demand for five rupees by her mother-in-law as compensation for keeping her children that forced the mother in her to use her womanhood to earn money for the upkeep of her children. She discussed with some Rosa Chechi who suggested to her that she had to go with some man. This was the only way she could earn the huge amount of five rupees demanded from her by her mother-in-law. In any other work, she could earn only two or three rupees at the most. Thus, prostitution was the highest paid job available to her at the time. She was clear that she was to do sex work. But she was okay with that. Her autobiography gives the female experiences of a sex worker. She doesn't consider sex work as demeaning. When she was asked by Asia Net News Hour what was she doing to end the sex work? She replied that her desire was to maintain it. She doesn't feel any kind of shame in telling the society that she is a sex worker. Rather she demands that

society should recognize the sex workers. She takes it as a profession: it is not that she enjoys it, citing the example of a construction worker, but takes it as a source of livelihood. The DMSC (Durbar Mahila Samanwaya Committee) on the issue of prostitution also has a similar opinion. They express: "We believe that like any other occupation, sex work too is an occupation and not a moral condition. If it is one of the 'oldest professions' in the world, that is because it must have continued to meet an important and consistent social demand." (Sahni et al. 31) Though the work of sex workers is in high demand throughout the world, and as pointed out by DMSC is one of the oldest professions, yet these workers very often face the question of survival. Till today, not much has improved for them. In fact, things have only worsened.

Nalini questions and challenges the patriarchal notions of sexuality and sex workers. She had begun working since the age of nine in different work places but nowhere did she find an environment that was free of sexual harassment and unsolicited sexual advances of men in position of power or even co-workers. Her mother thinks that as a young girl she will be safer working in a domestic household as help. However, it is within this haven of social respectability that she is sexually molested. In Nalini's words: "He tried to put his hand inside my blouse. I didn't like that I freed myself by force, and went downstairs... Everyone said it was a terrible mistake to have gone into Ittamash's room. All of a sudden, I was at fault. I myself began to feel that I had done something wrong." (14) As pointed out by the DMSC, constant sexual harassment in prior work (DMSC 2002:17-8, 19-25) was a justification for taking up sex work because sex work paid better than respectable jobs which anyway demanded sexual favours. Contrary to feminists' claims that sex workers who assert the social value of sex work are oblivious to power relations in structurally similar sectors like care work or domestic work. Indian sex workers are acutely aware of such inequalities. (Kotiswaran *Sex work* xxxix)

Nalini also gets an opportunity to experience a marital life not once but twice. The first time, she is married before she enters into prostitution and her husband commits suicide unable to bear the pain of his cancer. It is her first mother-in-law's demand that forces her into prostitution. The second time she marries when one of her clients offers to support her. She lives as a dutiful and chaste wife, loving, caring and sacrificing mother but on the same side questions the servility inside this cover and further questions the false ideals of these very patriarchal notions to suppress woman. Discussing about marriage, Nalini

remarks that sex workers are free in four respects: "we don't have to cook for a husband; we don't have to wash his dirty clothes; we don't have to ask for his permission to raise our kids as we deem fit; we don't have to run after a husband claiming rights to his property". (107)

Sex workers, therefore, see marriage in two ways. First, they recognize that married life has some benefits such as social respectability, stability, and security- that are not available to sex workers. On the other hand, they consider that sex worker have some advantages over married women. In their view, married women are sexual slaves; indebted to their husband for food and shelter. (Sahni et al. 32) So there is nothing wrong in it. Linda LeMoncheck says: "[F]or some women to get paid for what all women are expected to do for free is a source of power for all women to refuse any free sex." (135)

The first client of Nalini was a policeman who paid her handsome amount. She said that none of her husbands paid her that much amount in her life. Her memories of her first client were quite warm but the same man handed her over to the police in the morning. "The same handsome man handed me over to the police in the morning. Men can be both tender and cruel at the same time. I learned that lesson from my very first client." (26) Gender hypocrisy is deeply embedded in our society. Men forget that it is because of them that demand for sex work has emerged. They are the clients. It is because of them, that the market for sex work has flourished. But they see these women with disregard and disrespect them. As she says: "Even if you've been with such men a thousand times, there's no change in their attitude. I'm a respectable individual, you are a whore. They never arrive at the realization that they are clients." (164) The hypocrisy of men comes to the fore when they can sleep with a sex worker but don't want an account of her life. Nalini recalls about how one of her clients would react to her sharing the details of her life. She says: "When I talked of my friends, he'd inevitably say: 'not about those dirty women, say something else.'" (43) Since time immemorial, women's body has been subjected to various kinds of control inflicted by patriarchy in the name of honour, culture and religion. Nalini has laid these men bare through her autobiography. "It isn't we who're making a botch of this place; it's the men in your country who're experts at that kind of job!" (91) Her autobiography explicitly brings the hypocrisy and innate hollowness of society to the fore. Image of Nalini's self as a woman questioning the world of men and intruding in their established sexual-

social hypocrisy is explicitly narrativised through her autobiography. Bereft of all literary draperies, its aesthetics lie in its candour.

She refuses to bow in shame before the mainstream society and demands respect and dignity. She tries to subvert the cultural construct of a “prostitute”. She demands a space which is otherwise absent from the life of a sex worker. Her narrative questions the stereotype of a prostitute. She claims that a sex worker body’s is not a body to be used by a client in his way rather a sex worker is the owner of her body and she will decide the way it is to be used. Her narrative is set in a language of resistance. It brings to the fore the hollowness and conspiracy of the various institutions like police, health, media etc. Not only that she also criticized the rehabilitation programmes as mere institutes of hypocrisy. Therefore, she demands for the rights of sex workers and resists all the policies that relegate sex workers to the margins and demands for their space and voice and asks for the legalization of sex work.

Rehabilitation is the most plausible solution provided by most of the social reformers. But it isolates the sex workers further by restricting them to such houses and disconnect all the social ties forgetting human’s craving for social recognition, social bond. Regarding the question of rehabilitation, Nalini Jameela raises an important question: “I want to ask these people whether they have ever tried to find out about sex workers’ family ties, social ties. Is it possible to build afresh their domestic ties and social ties through rehabilitation? Won’t this merely leave the sex worker all the more isolated and helpless?” (137) Many thinkers and social activists have raised similar concerns, regarding judicious framing of laws and policies, and contextualizing them in the ground reality.

Laws and policies, including ones that criminalize sex work, may increase sex workers’ vulnerability to violence. For example, forced rescue and rehabilitation raids by the police in the context of anti-trafficking laws may result in sex workers being evicted from their residences onto the streets, where they may be more exposed to violence. Fear of arrest or harassment by the police may force street-based sex workers to move to locations that are less visible or secure or pressure them into hurried negotiations with clients that may compromise their ability to assess risks to their own safety. (“Addressing violence” 24)

Even the decriminalization of sex work does not pave the way for social acceptance of sex workers. It further promotes corruption. As Nalini points out: “People who are interested in our welfare cannot

think beyond rehabilitating us or abolishing prostitution (75-76)...we systematically find ourselves to be targets of mobilizing impulses of dominant social groups”. (55-56)

LeMoncheck says: “ Therefore, treating sex workers with care respect will mean trying to see the world from their point of view and, even more important, to respect each worker as a unique individual whose social location specifies her needs and interests in ways that may be quite different from other sex workers’ or my own. Such a relationship requires establishing open lines of communication and trust between feminists and sex workers through which we can exchange points of view.”(150)

The legalisation approach, like decriminalization, acknowledges sex work as a lawful activity but subjects it to heavy regulation and stringent state control through zoning (confining women within demarcated areas), licensing laws and mandatory health checkups. It has been found that jurisdictions that have introduced zoning and licensing laws have been subject to excessive state control, ghettoization of sex work, and stringent medical and health checkups that are mandatory, rather than voluntary. It is common for sex workers to regard legalization as legalized abuse because the State takes on the role of the illicit ‘middleman’.

In a country where corruption is rampant, legalization would only give more power to law enforcers and aggravate the disadvantage that sex workers face. Instead, sex workers prefer the repeal of all legislation that is not ordinarily applicable to businesses. As Nalini explicitly puts: We demand that sex work be decriminalized. This does not mean establishing licenses. That creates a whole set of new complications: recognition from doctors and the police; the red tape of the law. That will aggravate corruption. By ‘decriminalising’ what we mean is this: if two people want to have sex by mutual consent, if this is in no way a nuisance to others, then it should not be questioned. (138)

Now there is a sex workers’ movement which puts forward their demands. Sex workers manifesto came into play with the first national conference of sex workers in India, Kolkata, November 14-16, 1987. It confronts many fundamental questions about social structures, life, sexuality, moral rights, and wrongs. Though there are a lot many organizations which work for the upliftment of sex workers and majority of people show sympathy towards them but it’s not what they require. They require an understanding and acceptance.

Thus, this autobiography is a journey of a woman from passive prostitute to an active sex worker questioning the patriarchal notions of 'sati savitri' and bringing to the fore cultural and ethical hypocrisy that creates an inferiority complex and deviation to merge into the mainstream. She shuns all the stigma attached with the sex work and sets an exemplary model by elevating herself through sex work. The text necessitates the need for the absorption of these sex workers into the main core and thus raising the sex work to the level of a profession. Her autobiography is a poignant piece sieved through the filters of mainstream consciousness. Nalini Jameela suggests that recognition of this profession as 'work' like any other may lend some dignity to it, as might certain legislations regulating it. Linda LeMoncheck states that many strippers and prostitutes report that they enjoy the money, the flexibility, and the independence that their work offers. Many of them are neither pimped, poor, nor wildly promiscuous, but working women with their own preferred clients, hours, and bosses. Such sex workers report that they are not coerced, abused, or mistreated, although they acknowledge that these are some of the hazards of the profession. They contend that allowing prostitutes to file criminal and civil charges against their clients, along with stricter enforcement of fair wages and working conditions for strippers and porn actresses, would greatly reduce the risks typically associated with their work. (113)

Her autobiography narrates the questions of self, subjectivity, authority and representation. Through it, she expresses the plight and suffering of all sex workers and demands the legalization of sex work. She identifies herself with the group of sex workers bound by common needs. Her single voice "I" stands for the whole fraternity of sex workers and thus merged with the "we". Nalini's autobiography speaks for the women who have been subjugated, silenced and hated for the centuries. She questions the morality code imposed on women asking the same to be imposed on men. She demands that the sex work should be raised to the level of a profession and sex workers should be treated like professionals. The precedents for the same are present in our very own ancient texts like the *Asthashastra* and the *Kamasutra*.

The entire journey of writing her life narrative and her insistence on treating the practice of prostitution like any other profession is a call for claiming human dignity through social acceptance, "Since I believe that what we need is not sympathy or compassion but acceptance." (139). LeMoncheck further questions: Is sex work liberating a woman or oppressing her in a satirical vein of double

standards of society? "Is the prostitute the quintessential oppressed woman or the quintessential liberated woman? Or is the prostitute simply a woman who, like all women in this society, is struggling to understand and live her own sexuality?" (148) Nalini Jameela the writer/sex worker firmly asserts the second view. Thus, this autobiography is not only telling the story of a prostitute but also reclaiming a part of dignity through the very act of writing.

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- What do the Vedas or other scriptures of that era say about prostitution?
Rami Sivan, Hindu Priest
Answered May 18, 2019

Environmental Issues Associated with Loktak Lake, Manipur - A Review

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Introduction

Without water, there is no life on earth. It is important to all living organisms, ecological systems, human health, food production and economic development (Shukla et al., 2013). Lakes are the hub of socio-economic activities of any country. These are dynamic ecosystem that reflects their specific characteristics, variations in climate and biological component (Puri et al., 2015). During the last few decades lakes all over the world have become the focus of environmental investigation as they exhibit enormous diversity based on the genesis, geographical location, hydrological regimes and substrate factors (Pant et al., 2017).

Loktak Lake is a unique natural ecosystem with numerous national and international significances designated under the Ramsar Convention. It is the largest freshwater lake in North-East India covering an area of 246.72 km² (ISRO, 2009). It lies in between 24° 25' N and 24° 40' N latitudes and 93° 45' E and 93° 55' E longitude in the Southern part of the Imphal Valley of Manipur (Devi, et al., 2013). The elevation of the Loktak catchment varies from 800m above mean sea level in the valley to over 2500m above mean sea level in the surrounding mountains (PWD, 1967).

It is considered the lifeline of Manipur and is an integral part of the socio-economic and cultural life of the people. The characteristic feature of the Loktak Lake is the presence of floating islands, locally called 'Phumdis' which are heterogeneous mass of soil, vegetation and

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organic matter at various stages of decomposition (Devarani & Basu, 2009). The southern part of Loktak Lake wetland forms the Keibul Lamjao National Park (KLNP), which is the one of the largest floating island wildlife protected area in the world (Prasad & Chhabra, 2001).

Considering the importance of Loktak Lake, the Government of Manipur has passed Manipur Loktak Lake (Protection) Act, 2006. This is an Act to provide for administration, control, protection, improvement, conservation and development of the natural environment of the Loktak Lake and for matters connected with as incidental thereto. And, on 7th March, 2010, the North East Center for Environmental Education & Research (NECEER), Imphal in partnership with more than 20 organizations across the globe, launched a worldwide campaign 'Save Loktak Lake' in 25 cities. "Save Loktak Lake: Lifeline of Manipur" was the theme of the campaign.

Methodology of the Study

This study was conducted based on the survey of various studies done on the Loktak Lake. In this study, I have conducted general search by the name of "Environmental issues of Loktak Lake pdf" on the internet. From this search I have found large number of articles, abstracts of scientific research papers, full scientific research papers, extracts from newspapers, magazines, reports, dissertations, Ph.D. thesis etc. related to the topic. I reviewed and critically analyzed all those materials found during the search by focusing mainly on the causes and effects of the environmental issues of the lake and reached the following findings. Few recommendations and suggestions were also made in order to solve or minimize those environmental issues found.

Findings of the Study

Ramsar Convention Bureau, 2000 reported that deforestation in the catchment and the construction of the Ithai Barrage in the Loktak Lake led to a number of problems viz. siltation, weed infestation, loss of biodiversity, decrease in fisheries production, decrease in power generation, flooding, pollution etc.

An analysis performed by Trisal and Manihar, 2002 showed that high microbial content of the Loktak Lake may be attributed to the direct discharge of human and other animal wastes, seepage of excreta from the islands and surrounding areas and from other indirect sources. Large amounts of nutrients are discharged into rivers, finally flowing into the Loktak Lake. The main changes to the water regime in this

wetland are those pertaining to the hydro period, water spread area, residence and turnover time, wave hydrodynamics, circulation and mixing, and overall water balance etc. All these changes are likely to have an impact on the present trend of growth and spread of phumdis in the wetland.

ISRO, 2009 observed that Loktak Lake is facing a serious problem of silting up due to erosion in the catchment and deposition of silt in the lake that hampered its water holding capacity.

Field Survey conducted by Singh & Moirangleima, 2009 had revealed that the greatest threat to Loktak Lake is from encroachment mainly due to the expansion of agricultural fields, human settlements, construction of roads, pisciculture /aquaculture etc. Other threats are from eutrophication, siltation, pollution, weed infestation and construction of dams.

The largest impacts on the lake have been associated with prioritisation of one ecosystem service, the provision of water for hydropower generation. The Ithai Barrage has raised water levels and reduced the magnitude of seasonal fluctuations (Singh et al., 2010).

After a thorough analysis, Rai, and Raleng, 2011 in their Ecological Studies of Wetland Ecosystem in Manipur Valley from Management Perspectives concluded that the deforestation particularly jhum cultivation and land-use/cover change has drastically affected the water quality of the lake.

Singh et al., 2011 had demonstrated that Loktak Lake exemplifies the issues associated with trade-offs between different wetland ecosystem services. Hydrological model of the study showed that prioritisation of hydropower generation, which has dominated management of the Ithai Barrage since its construction, has resulted in raised lake water levels and the prevention of the historic dry-season drawdown. The consequent deterioration of ecological conditions within the lake has potential impacts on other ecosystem services, especially those associated with the phumdis.

Inundation of peripheral areas due to Ithai Barrage resulted to an occupation shift from traditional agriculture – fisheries based livelihood systems to fisheries alone. Declining resource base with increasing population pressure forced propagation of harmful fishing practices ultimately leading to phumdi proliferation and choking of the central sector of the lake. The ultimate effect has been impoverishment of livelihoods and enhancement of poverty within wetland communities as a result of ecosystem degradation (LDA, 2012).

According to Devi, 2012, apart from hunting and other disturbances, construction of the Ithai Barrage was the main threat to the lake. Overfishing was another key threat, leading to decrease in fish diversity and causing scarcity of food for migrating waterfowl. It was also noted a conflict between local fisherfolk and the government due to the phumdis cleaning drive undertaken by the Loktak Development Authority (LDA) in association with the state forest department.

Major threats faced by the Loktak Lake as pointed out by Gupta, 2012 are 1) The impoundment of water by the Ithai Barrage which has inundated agricultural land besides some settlements in the southern Manipur valley. The population of resident and migratory waterfowl, several fishes and macrophytes has sharply declined. 2) The siltation in the lake has increased as the outflow of the silt-laden water has been checked. 3) The permanent water caused by the construction of Ithai Barrage has led to the thinning of the phumdis in the KLNP. 4) Large amounts of nutrients are discharged by the rivers to the Loktak Lake which have highly polluted stretches in between. The changes observed are 1) the mean lake water level has increased. 2) The area of the Loktak Lake has increased. 3) The overall phumdis have proliferated throughout the lake leading to enhancement of phumdis area. 4) Phumdis have significantly increased in the central zone, whereas reduction has occurred in the northern zone. The coverage of phumdis in the southern zone has slightly increased. 5) Proliferation of phumdis in the central zone has led to the reduction of open water area.

Singh and Moirangleima, 2012 revealed that the Loktak Lake is under severe stress and the important causes of this are construction of Ithai Barrage, weed infestation, encroachments, pollution, overexploitation of lake resources and siltation. The resultant impacts on the surrounding land and biodiversity are flooding of agricultural fields and villages, decrease fisheries production and loss of biodiversity. The impacts on the livelihood of the lake dwellers are change in livelihood structure, changes in income structure, unemployment problems and health problems.

Yumnam, 2012 observed that it will be double injustice and disregard of the indigenous peoples of Manipur if the National Hydro Power Corporation (NHPC) proceeds with its preparation to seek carbon credits from UNFCCC (United Nations Framework Convention on Climate Change) in the name of renovation of Loktak Hydro-Electric Project (LHEP). The company has been refusing to adhere to the repeated calls and demands of the community affected by LHEP

concerning rehabilitation and resettlement, decommissioning of Ithai Barrage and restoration of Loktak wetland ecosystem etc. It was also observed that Ithai Barrage affects the socio-economic life and environment of Manipur reversing economic status of Manipur from a self sufficient to borrower's position.

The result of the study by Bharati, 2013 indicated that the discharge of sewage into the rivers that fall finally into the lake, domestic wastes, use of fertilizers and pesticides around the agricultural fields, erosion of soil of catchment area, etc. have led to deterioration of water quality of the lake and siltation of lake.

Among the eleven parameters analyzed across five sites in the Loktak Lake by Laishram & Dey, 2014, it was found that the physico-chemical properties of Dissolved Oxygen and Biochemical Oxygen Demand are above WHO (World Health Organization) standard limit due to discharge of municipal sewage, domestic wastes, fertilizers and pesticides from agricultural practices disturbing the ecology of the lake.

The lake is gradually silting and the pollution of its water is increasing day by day due to those activities which lead to shrinking of the lake. Direct discharge of urban waste from Imphal city into the lake through Nambul River has become one of the main causes for polluting the lake. (Rai & Singh, 2014).

Asem, 2015 found that the present issues being faced by the fishermen of the Loktak Lake is due to the implementation of the Manipur Loktak Lake (Protection), Act, 2006 under the re-constituted LDA. The act has been violating the constitutional rights of the fishermen and as long as the Act is in practice, farmers, fishermen and people dependent on the wetland will not be able to live in peace. The author also argues that LDA is working in their vested interest and not for development of the lake. The implemented projects under the name of 'saving' the lake have become contentious. It is being charged that the LDA issued an ultra vires eviction notification on november11, 2011 and carried out forced eviction. The cleansing and displacement project is primarily designed by politicians, contractors and their agents who make money out of the projects. The policies that were hoping to see positive results have brought negative fallouts leading to social conflicts. The author also calls for repeal of the Manipur Loktak Lake (Protection) Act, 2006.

Maibam, et al., 2015 had reported that the present fish diversity of Loktak Lake is reaching a very critical stage. Rai, and Singh, 2015, in their study in the lake concluded that the water of the lake is

polluted and this is attributing to the deterioration of the water quality of this lake.

Kangabam, et al., 2016, revealed that the lake needs to be conserved, as further destruction of the wetland will lead to large scale emission of carbon dioxide and loss of important natural resources including the KLNP.

Suggestions and Recommendation

As degradation of Loktak Lake can cause severe environmental crisis in Manipur, the approach of the state government towards saving the lake should be changed. More effective management strategies should be developed so that environmental conditions of the lake are improved early. There should be a clear understanding between state government and the company responsible for generating hydropower in the Loktak Lake i.e. NHPC and a MoU should be signed regarding the management and operation of the project. The company should also have to take some risk by extending support for overall environmental development of the lake in the long run. It should be kept in mind that if the lake degraded completely then it will not be possible for anyone to enjoy the precious resources of the lake. A committee may be formed involving all the stakeholders to discuss and coordinate for the proper management and conservation of the lake. Qualified and trained personnel in the related field should be inducted in the decision making body. Regular monitoring and evaluation of lake's overall health will be a wise step towards conservation of the lake. Wise use of the lake and its associated resources would mean actual conservation of the lake. Strict enforcement of the environmental laws operating in the country is the need of the hour for protection of the lake and its ecosystem. It will not be possible to conserve the lake without proper participation of the local community. So, awareness programmes should be conducted regularly in order to understand the real situation among the lake dwellers. Programmes for upgrading the socio-economic conditions of the lake dwellers are also need to be taken up so that their dependency on the lake is reduced. Future research on the subject is also highly recommended.

Conclusion

As the objectives of the study is to review the environmental issues of the Loktak Lake mainly focusing on its cause and effects and also to highlight the legal and policy implementation gap and controversies surrounding the lake, These have been enhighlighted.

The findings also reveal that no MoU was signed between the NHPC and government of Manipur with regard to operation and functioning of LHEP. This may be the reason for the NHPC refusing to take the responsibility for the loss of land, suffering caused to the people and adverse impact on the wetland.

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