



Under the joint auspices of the Parliamentarians Group for
Dr. B.R. Ambedkar Birth Centenary Celebrations, the Indian
Parliamentary Group and the Bureau of Parliamentary Studies
and Training of the Lok Sabha Secretariat

SEMINAR ON CONSTITUTION OF INDIA IN PRECEPT AND PRACTICE

(25 & 26 APRIL, 1992)

PROCEEDINGS
&

THEME PAPERS

NEW DELHI
December, 1992

**Seminar on
Constitution of India in Precept and Practice
(25 & 26 April, 1992)**

**Under the Joint auspices of the Parliamentarians Group for
B.R. Ambedkar Birth Centenary Celebrations, the Indian Parliamentary
Group and the Bureau of Parliamentary Studies and Training of
the Lok Sabha Secretariat**

**PROCEEDINGS
&
THEME PAPERS**

**New Delhi
December, 1992**

Price Rs. 90.00

**CONSTITUTION OF INDIA
IN
PRECEPT AND PRACTICE**

Preface

A two-day Seminar on 'Constitution of India in Precept and Practice' was organised under the joint auspices of the Parliamentarians Group for Dr. B.R. Ambedkar Birth Centenary Celebrations, the Indian Parliamentary Group and the Bureau of Parliamentary Studies and Training of the Lok Sabha Secretariat on 25-26 April, 1992 in the Parliament House Annexe, New Delhi. Shri Shivraj V. Patil, Speaker, Lok Sabha, inaugurated the Seminar. Union Ministers, Presiding Officers of State Legislatures, eminent parliamentarians, distinguished jurists, noted legal and constitutional experts, leading journalists, political scientists and academicians participated in the Seminar. The participants brilliantly commented upon the working of the Constitution of India in the light of the experience gained during the last more than four decades.

The Seminar was divided into four different thematic sessions *viz.* Constitution of India as an instrument for economic growth and social justice; Accountability Vs. Stability; Constitution of India and National Integration; and Constitution of India in Precept and Practice. The key-note addresses on each thematic session were delivered by Shri Vijaya Bhaskara Reddy, Union Minister of Law, Justice and Company Affairs; Shri Vasant Sathe, former Union Minister; Shri L.K. Advani, Leader of the Opposition in Lok Sabha; and Shri Buta Singh, M.P. and Convenor, Parliamentarians Group for Ambedkar Birth Centenary Celebrations, respectively. Discussions followed the key-note addresses.

The volume contains the verbatim proceedings of the Seminar. The theme papers prepared for the Seminar by the Research and Information Division of the Lok Sabha Secretariat have also been added to the volume.

It is hoped that this publication would be found to be informative and useful.

NEW DELHI
December, 1992

C.K. JAIN,
Secretary-General.

Distinguished Participants

1. **Shri Shivraj V. Patil, Speaker, Lok Sabha**
2. **Shri Buta Singh, M.P., Former Union Minister, Convenor, Parliamentarians Group for Dr. B.R. Ambedkar Birth Centenary Celebrations.**
3. **Shri K. Vijaya Bhaskara Reddy, Minister of Law, Justice & Company Affairs.**
4. **Shri L.K. Advani, M.P., Leader of Opposition in Lok Sabha.**
5. **Justice S. Mohan, Judge, Supreme Court.**
6. **Shri H.R. Bhardwaj, Minister of State for Planning & Programme Implementation.**
7. **Justice B.N. Misra, Chief Justice, Sikkim High Court.**
8. **Dr. Umeshwar Prasad Varma, Chairman, Bihar Legislative Council.**
9. **Shri D. Sripada Rao, Speaker, Andhra Pradesh Legislative Assembly.**
10. **Shri Jiba Kanta Gogoi, Speaker, Assam Legislative Assembly.**
11. **Shri Gulam Sarwar, Speaker, Bihar Legislative Assembly.**
12. **Shri Sheikh Hassan Haroon, Speaker, Goa Lagislative Assembly.**
13. **Shri Ishwar Singh, Speaker, Haryana Vidhan Sabha.**
14. **Shri Brij Mohan Misra, Speaker, Madhya Pradesh Vidhan Sabha.**
15. **Shri P.R. Kyndiah, Speaker, Meghalaya Legislative Assembly.**
16. **Shri Yudhisthir Das, Speaker, Orissa Legislative Assembly.**
17. **Shri Harcharan Singh Ajnala, Speaker, Punjab Vidhan Sabha.**
18. **Shri Hari Shankar Bhabra, Speaker, Rajasthan Vidhan Sabha.**
19. **Shri Purushottam Goyel, Chairman, Delhi Metropolitan Council.**
20. **Shri A. Dharma Rao, Deputy Speaker, Andhra Pradesh Legislative Assembly.**
21. **Shri Simon Peter D'Souza, Deputy Speaker, Goa Legislative Assembly.**
22. **Shri R.M. Jamatia, Deputy Speaker, Tripura Legislative Assembly.**
23. **Shri Anil Mukherjee, Deputy Speaker, West Bengal Legislative Assembly.**
24. **Prof. C.P. Thakur, M.P. Rajya Sabha.**
25. **Shri Sangh Priya Gautam, M.P. Rajya Sabha.**
26. **Shri Sharad Dighe, M.P. Lok Sabha.**
27. **Shri Syed Shahabuddin, M.P. Lok Sabha.**
28. **Prof. Malini Bhattacharya, M.P. Lok Sabha.**
29. **Prof. Rita Verma, M.P. Lok Sabha.**
30. **Shri A.K. Sen, Former Union Minister.**
31. **Shri Vasant Sathe, Former Union Minister.**
32. **Shri P. Upendra, Former Union Minister.**
33. **Shri K. Natwar Singh, Former Union Minister.**
34. **Shri Justice H.R. Khanna, Former Judge, Supreme Court.**
35. **Shri Soli J. Sorabjee, Former Attorney General.**
36. **Shri Badr-Ud-Din Tyabji, Former Ambassador.**

(ii)

37. Shri Champalal Jain, M.L.A. Rajasthan.
38. Prof. R.N. Thakur, Indian Institute of Public Administration.
39. Prof. R.K. Barik, Indian Institute of Public Administration.
40. Prof. P.M. Bakshi, Director, Indian Law Institute.
41. Shri J.K. Mittal, Indian Law Institute.
42. Prof. R.K. Nayak, Indian Law Institute.
43. Smt. Shyamla Pappu, Senior Advocate, Supreme Court.
44. Dr. Joseph Verghese, Advocate, Supreme Court.
45. Shri Sailen Chatterjee, Journalist.

CONTENTS

PART I — PROCEEDINGS

(I) Proceedings of the Seminar for the first day
— 25.4.92

	<i>Page No.</i>
Shri Buta Singh.....	1
Shri Shivraj V. Patil.....	1
Shri Buta Singh.....	8
Shri K . Vijaya Bhaskara Reddy	8
Shri H.R. Bhardwaj.....	10
Dr. Umeshwar Prasad Verma.....	13
Shri Soli J. Sorabjee	14
Justice S. Mohan.....	16
Shri Ishwar Singh	18
Shri Badr-Ud-Din Tyabji	19
Shri Purushottam Goyel	20
Smt. Shyamla Pappu.....	21
Prof. R.K. Nayak.....	23
Shri Jiba Kanta Gogoi.....	25
Prof. R.N. Thakur.....	26
Prof. Chandresh P. Thakur	27
Shri Sangh Priya Gautam.....	29
Shri Anil Mukherjee	30
Shri Simon Peter D'Souza.....	31
Shri Buta Singh.....	33
Shri Vasant Sathe.....	35
Shri K. Natwar Singh.....	38
Shri Hari Shankar Bhabra.....	41
Shri Shaikh Hassan Haroon.....	43
Shri D. Sripada Rao	44
Justice H.R. Khanna.....	45
Shri Sharad Dighe	46
Justice B.N. Misra.....	47
Shri Anil Mukherjee	48
Prof. P.M. Bakshi	50
Mr. Chairman.....	51
Shri Om Mehta.....	51
Shri Anil Mukherjee	51
Mr. Chairman.....	51

(II) Proceeding of the Seminar for the Second day
— 26.4.92

	<i>Page No.</i>
Mr. Chairman, Shri Buta Singh.....	52
Shri L.K. Advani	52
Mr. Chairman.....	58
Shri A.K. Sen.....	58
Shri Badr-Ud-Din Tyabji	59
Justice H.R. Khanna.....	60
Shri Gulam Sarwar	62
Shri R.M. Jamatia	64
Smt. Malini Bhattacharya	65
Shri Syed Shahabuddin.....	67
Shri P.R. Kyndiah.....	69
Mr. Chairman.....	71
Smt. Rita Verma.....	71
Shri Sailen Chatterjee	72
Shri Simon Peter D'Souza.....	73
Shri Jiba Kanta Gogoi.....	75
Shri Champalal Jain.....	76
Shri Ishwar Singh	76
Shri A. Dharma Rao	77
Prof. C.P. Thakur	78
Secretary-General, Lok Sabha	80
Shri Buta Singh.....	80
Shri P. Upendra.....	85
Shri Soli J. Sorabjee	87
Shri D. Sripada Rao	89
Shri Harcharan Singh Ajnala	90
Shri Yudhisthir Das	92
Shri Brij Mohan Misra	94
Shri J.K. Mittal.....	95
Shri Anil Mukherjee	97
Prof. R.K. Barik.....	99
Dr. Joseph Verghese.....	100
Prof. R.K. Nayak.....	102
Mr. Chairman.....	103
Shri Yudhisthir Das	105
Mr. Chairman.....	105
Secretary-General, Lok Sabha	105

PART II — THEME PAPERS

Page No.

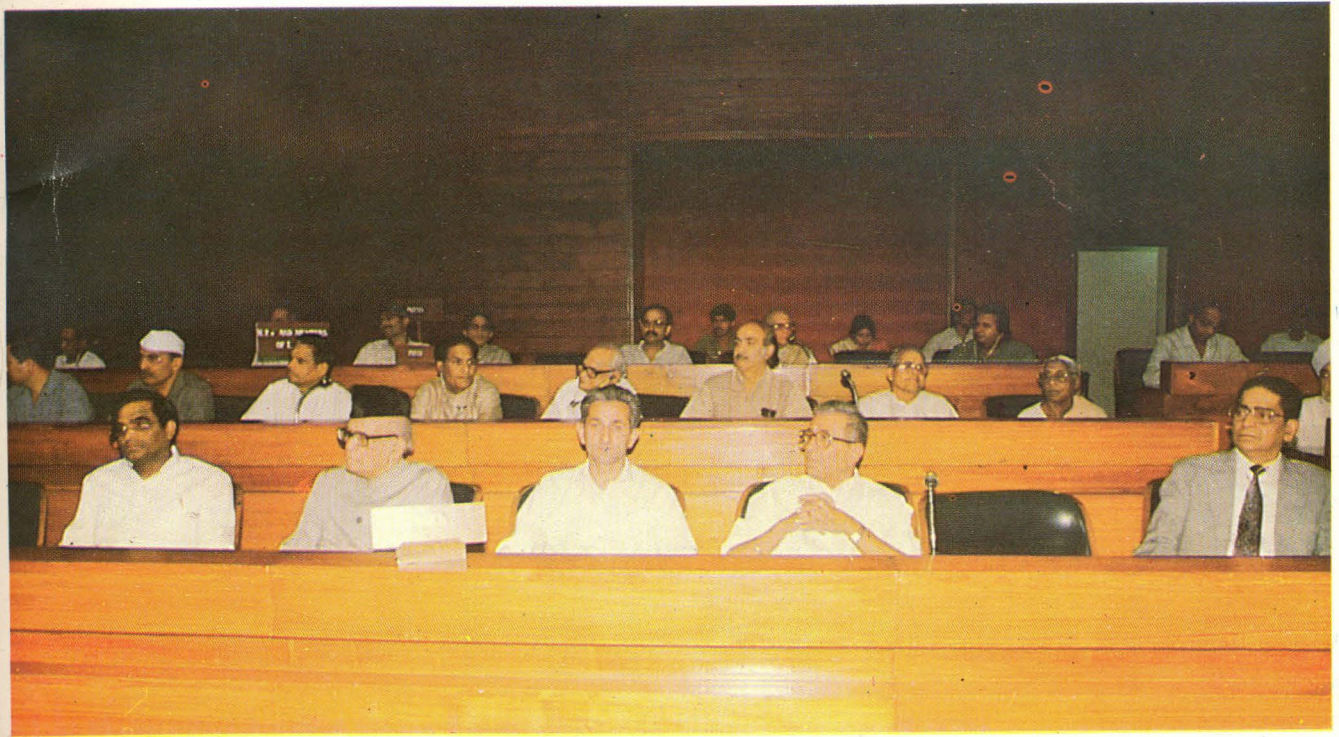
I. Constitution of India as an instrument for economic growth and social justice	107
II. Accountability Vs. Stability.....	117
III. Constitution of India and National Integration.....	123
IV. Constitution of India in Precept and Practice	130



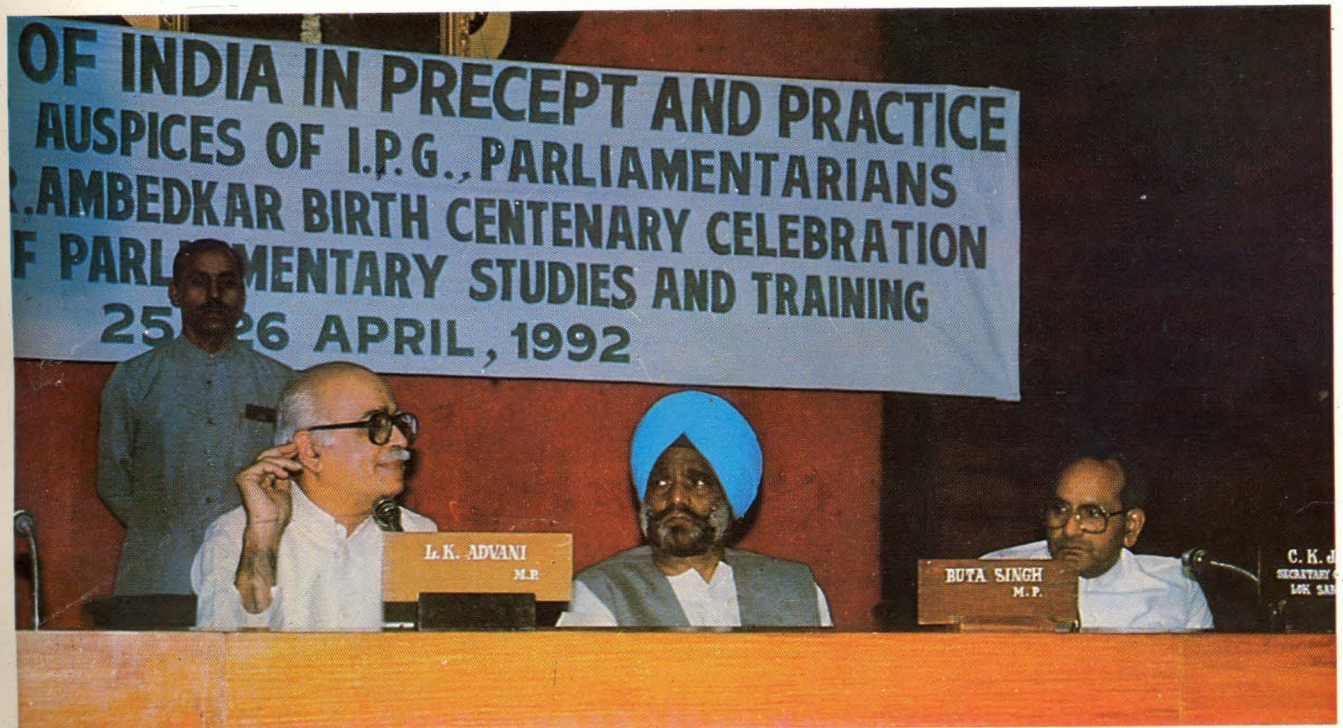
Shri Buta Singh, Convener, Parliamentarians Group for Ambedkar Birth Centenary Celebration at the Seminar on Constitution of India in Precept and Practice. On the dais with him are: Deputy Chairman, Rajya Sabha, Dr. (Smt.) Najma Heptulla; Speaker, Lok Sabha, Shri Shivraj V. Patil, Minister of Law, Justice & Company Affairs, Shri Vijaya Bhaskara Reddy, and Honorary Adviser, BPST, Shri Om Mehta



Speaker, Lok Sabha, Shri Shivraj V. Patil inaugurating the Seminar on Constitution of India in Precept and Practice



Dignitaries participating in the Seminar



Leader of the Opposition in Lok Sabha, Shri L.K. Advani, delivering the key-note address at the Seminar

PART I
PROCEEDINGS

PROCEEDINGS OF THE SEMINAR ON CONSTITUTION OF INDIA IN PRECEPT AND PRACTICE

25, APRIL 1992

Shri Buta Singh: Hon. Speaker, Lok Sabha, Shri Shivraj Patil Sahib, Hon. Chairperson, Dr. Najma Heptulla, Hon. Law Minister, Shri Vijaya Bhaskar Reddy, Shri Om Mehta, Hon. Ministers, Presiding Officers, Hon. Judges, Hon. Members of Parliament, distinguished participants, ladies and gentlemen,

I have great pleasure in extending a warm welcome to all the honoured guests and the distinguished audience to this Seminar. The seminar has been organised jointly under the auspices of Parliamentarians' Group on Baba Sahib B.R. Ambedkar Birth Centenary Celebration and the Bureau of Parliamentary Studies and Training. The holding of the seminar most appropriately coincides with Baba Sahib's birth centenary celebrations. Without taking much of your time in discussing at this stage the usefulness of the seminar, on which obviously distinguished participants would express their views, I would now request Hon. Speaker, Shri Patil Sahib to deliver his inaugural address.

I am very grateful to the Hon. Speaker for having kindly consented to inaugurate the seminar. As a matter of fact, Hon. Speaker has not only taken the initiative for this seminar but also his blessings have been a powerful support to this endeavour. May I now request Hon. Speaker to give us his inaugural address.

Shri Shivraj V. Patil, Speaker, Lok Sabha: Hon. Law Minister, Shri Vijaya Bhaskar Reddy, Hon. Chairperson, Dr. Najma Heptulla, Hon. Buta Singhji, Hon. Mehtaji, Hon. Presiding Officers, Hon. Judges, Hon. Members of Parliament and friends,

We have great pleasure in extending a warm welcome to the Hon. Presiding Officers, Legislators, senior judges and other friends who have made it convenient to attend this seminar and participate in it. We are sure that their presence and participation in the seminar would add meaning and glory to the discussion. We appreciate the interest that they have shown in this dialogue on the Indian Constitution.

This seminar is organised to offer our respect to the memory of Dr. B.R. Ambedkar. Dr. B.R. Ambedkar was a great jurist, a great politician, a great visionary and above all he was a great human being full of compassion for those who are down trodden and the destitutes. In his life he suffered indignities inflicted upon him by misguided souls in the society. His heart pained at the plight of the weak and under-privileged brothers and sisters and yet he was not bitter at anybody. He might have been angry at those who inflicted inequality at the weak. He certainly preached that the weak should work hard, learn and earn and come out of their plight and for that they should struggle and fight. But he never preached bitterness or violence against anybody. That was the greatness of his heart and that was because of the compassion he felt for the entire humanity.

Dr. Ambedkar was the architect of the Indian Constitution. While drafting the Constitution he had to accept the suggestions given by others and make it into a document acceptable to all. In the process he had given up some of his ideas, however, the Constitution itself have the imprint of his genius and vision. He knew that he had to achieve certain objectives and it would not be very easy. He was well aware that after some time there would occur new problems, new types of situation and to cope with them it would be necessary to amend the Constitution. He was not totally happy with the Constitution. He did not think that it would not be amended in future. That was the view Pandit Jawahar Lal Nehru also had about the Constitution. That was the view of many other founding fathers of the Constitution. We would like to pay our respect to the hallowed memories of Dr. B.R. Ambedkar and would like to follow his advice in many matters relating to the fundamental law of the country and restructuring of the society and doing justice to all.

The topic which is selected for discussion in the Seminar is of a momentous character. In the given time it would be difficult to examine and discuss all aspects relating to it. We might highlight the most important aspects and make the understanding of the issue more lucid and beneficial. What would be said

here may or may not be in line with the approach of the political parties to which the participants belong. What they may say, may be their own point of view also. Certainly what would be expressed here is not going to be treated as an official point of view. I am sure, none of us here is authorised to give the official version of the views of the issue. What is being done here is an exercise to understand the topic in clearer terms.

Well, I was given a speech by the Office. I had written my own speech also. But, I thought that I would rather speak before you without referring to the written speeches. So, what I say when I speak without papers or without written speeches with me would be treated as uppermost in my mind.

Now, there are four subjects which we are going to discuss in this Seminar. The first topic is the 'Constitution of India as an instrument for economic growth and social justice'. The second topic is 'Accountability vs. Stability'. The third topic is 'Constitution of India and National Integration'. And the fourth topic is 'Constitution of India in Precept and Practice'.

The participants will deal with the topics in great detail. I see many legal luminaries and experienced politicians sitting in this hall and we would like to benefit from the views expressed by them.

What I am expressing now here on these topics is something which is not coming from any books, which is something coming from the experience and thoughts which had occurred to me in the course of political life I have lived.

Now, the first topic deals with economic growth and social justice. But, I think we started drafting the Constitution from 1947 and gave the Constitution to ourselves in 1950. But from 1952 onwards, we were busy with the laws which would help us to do social justice. From 1952-56, I think, the laws prohibiting the untouchability and the laws dealing with the Hindu Marriages Act, Hindu Succession Act and Hindu Adaption Acts were passed.

Now, the Preamble of our Constitution speaks about secularism and socialism. In Directive Principles also a mention is made about the social conditions and what we want to do with reference to the social conditions and economic conditions in our country. In this respect, the Preamble, the Directive Principles and the Fundamental Rights are very relevant.

When we took up the Bills and we wanted to pass the Bills to prohibit untouchability, there was no difficulty at all. But, when Hindu Code Bill came up

for discussion, there was a lot of difficulties experienced in the Parliament. And it was difficult for the then Law Minister Dr. B.R. Ambedkar, to come to Parliament and to his house without any escort, and he had to leave the Cabinet and later on the Hindu Marriage Act and the Succession Act and Adaption Acts were passed. After that we passed some laws protecting the children, protecting the workers. We have a set of laws for us for doing social justice to the people living in the country. But to what extent we have succeeded in doing real social justice to the people.

As far as the question of untouchability is concerned, in my opinion in urban areas the concept of untouchability or the untouchability is not there as it was in the past. But, as far as the rural areas are concerned, still people suffer from untouchability and the laws have not been able to reduce untouchability in rural areas to a very great extent.

Hindu Marriages Act is there and it tries to protect the interests of women. But, in reality, I think, it has not protected the interests of women. Still women suffer; still atrocities are inflicted on them and the Hindu Marriages Act has not made any change in their life. The Succession Act has not really helped them. It might have helped women in the urban areas to some extent but in rural areas it has not helped them. The daughter in the family does not ask for the share in the property and sometimes when the share is given to her, she refuses to take it. Sometimes share is not given and it is denied to her. So, it has not made any change.

Now, we have laws protecting the children and yet the economic situation is such that the children coming from the poor families have to work and they are not able to attend the school or the college and they are not able to live like all other children in other families. There are laws protecting the children but they have not really helped the children in our country.

The laws protecting the workers have been effected to some extent and I think they have helped the people who are working in industries. But, there is nothing to protect the workers who are working in the agricultural fields.

Now, this is also to be borne in mind. Well, I am just giving my impressions about the laws and about their effectiveness and as to what has happened after passing these laws.

We accepted the socialistic pattern of society and then embarked on the process of planning in our

country. The First-Five-Year Plan related to the development of agriculture. In fact, in the First-Five-Year Plan, the emphasis was on providing the irrigation facilities to agriculture. The results are visible to us today. We have about seven crore hectares of land under irrigation today—at the beginning I think we had only two crore hectares of land under irrigation—and the production from agriculture has gone up by three times, and because of that, it is possible for us to provide foodgrains to the people living in the country.

As regards industrial development, well, we tried to provide infrastructural facilities at the beginning and we tried to develop the basic industry. But the industrial development has not given us enough strength as to come on par with the industries in other countries. There is a lot to be done in this respect.

Development of human resources is satisfactory to some extent. It is a fact that in our country it has not been possible to provide education to the young children. That is one of the objectives set out in the Directive Principles and it has not been possible. But then as far as the development of technological and scientific expertise is concerned, we are supposed to be one of the three countries in the world and we do have enough of technological and scientific expertise in the country. It is not necessary for us to depend on the technological and scientific expertise from our side. We may import technology from outside but we do not get engineers and the experts from outside to man the machines or to use the technology which we have brought here. To that extent it has been possible for us.

As far as the health is concerned, the smallpox, cholera and diseases like that are eradicated. We are battling with diseases like T.B., leprosy and cancer. The average age of the citizens of India has gone up from 24 to 56 years or 58 years. So, in that respect we have done a bit.

Infrastructural facility which is produced by us in India is all right. It has helped us. But something more has to be done. The development of transport facilities is also not enough. We shall have to do a lot. The development of science and technology has really been satisfactory, I think, in some areas. Today we do not have scientists and technologists who produce a new technology or invent a new technology, but they have been able to deal with all kinds of technologies which are produced in the world. In some areas it has been possible for us to develop our own technology. In the area of agriculture, health,

atomic energy and space, it has been possible for us to develop the technology which can really help us. We are one of the countries which are in a position to produce the energy from atom, starting from the fuel to the disposal of the energy waste. It has also been possible for us to produce our own satellites and launch them in the space and outer space. Now we have been doing a lot in genetic engineering and other areas also. So, looking from this angle, the scientific development has been quite satisfactory.

But have we solved our economic problems? I do not think we have solved our economic problems. There is lot of unemployment in the country. The schemes have been produced and the schemes are being implemented—Employment Guarantee Scheme, Jawahar Rozgar Yojana and other schemes—and these schemes have really helped in the rural areas in providing employment to the uneducated ones. But the educated ones are still not finding jobs and they are running from pillar to post in search of the job. The problem of unemployment is one of the biggest problems which is faced by us today in the country.

It has also not been possible for us to control the population growth. It is turning into a big problem and we shall have to do something with respect to that. We have produced wealth in the country but the disparity between the richest and the poorest also has grown. We are a richer country but we cannot say that all people in India are quite rich and they are capable of supporting themselves. Now, this kind of disparity has cropped in and we shall have to deal with those kinds of disparities also. Much has been done but more remains to be done. This is a problem which has to be considered by us and we shall have to suggest ways and means of dealing with these things.

The second topic deals with 'Accountability vs. Stability'. We have adopted parliamentary system. The Executive in the country is accountable to the Legislature and both the Ministers and the Members of the Legislature are accountable to the people. Ten elections have been held and the Members to the Lok Sabha have been elected. Many elections to the Legislative Assemblies have been held. But the elections to the District Councils and the elections to the Gram Panchayats and Municipalities have not taken place regularly. That means at the national level and the State level, elections have been regularly held but the elections at the lower level have not been held regularly.

The Union Executive has been stable. Except for two-three years or two-three times, the Executive at the national level has been stable. But that cannot be said about the Executive at the State level, and certainly the position in the Municipalities and the District Councils is still worse.

The stability at the Union level and the national level is provided because of the ethos that has developed in the freedom struggle in the country and by the personalities which have been at the helm of affairs. But there is nothing in our Constitution which can really provide stability to the Union Government or the State Government. Every moment of its existence, these governments have been accountable and these governments can be pulled down. The question today is, is it possible for us to have some sort of device in the Constitution which will provide—and I am weighing my words very carefully—a reasonable stability? I am not asking for absolute stability but a reasonable stability. The Government should be accountable. At the same time, it should not be all the time unstable. There should be some reasonable stability. Can we do something in this respect? Suggestions are made that let us adopt the Presidential form of system and the stability will be provided to us. Some say that it is not necessary to have the Presidential form of government, with the parliamentary system also stability can be provided. If you accept the Presidential form of government abruptly, I do not think that it would work very smoothly in our country.

In some other countries the presidential form was abruptly accepted and the result has been disastrous. The parliamentary system has been there in our country since before we framed the Constitution in some form or the other and it has become a part and parcel of our ethos, of our thinking, and of our ideas about the government. So, in my opinion, the parliamentary system is more suited to our genius and the conditions in the country. But, should we continue with the present kind of parliamentary system alone or is it possible to provide some sort of a device to make it more stable? In my opinion it is possible to provide some modification in the Constitution which will give us reasonable stability.

In some countries elections are held for a particular period of time and before that particular period is over, the elections are not held. You may have elections every 3 years, every 5 years or every 4 years. But the House is not dissolved. If the elected members are not able to form a government, the Head of the State will constitute the government with

the help of the people coming from outside and that government can continue for a period until the members elected join hands and form a government. We should have elections at regular intervals. If we do not want elections at 5-year interval, we can have them at 4-year interval or 3-year interval. But, once we have the election, let that elected body continue for that period and after that let the members of the elected body go before the people and give an account of what they have done in the legislature. But every one year, every two years or every three years, before the period is over, if the elections are held, I do not think, it will be useful for the democratic set up.

On one hand there should be election. On the other hand there should not be elections held every now and then, without taking into account the amount of money involved, the amount of efforts that are required, the amount of difficulties that are created, the amount of disruption which results in holding elections every now and then.

It can be possible to have some other devices also. If we study the Constitutions of the world there are many devices. One of the Constitutions says that there will not be a no confidence motion. You can have a confidence motion. But you cannot have a no confidence motion. If the head of the executive had to be removed, you cannot pass a no confidence motion. But you can pass a confidence motion favour of someone else and that means the head of the executive will go out. It can also help us. You can have a system in which you can pass the no confidence motion by absolute majority or a special majority. But, today, the simple majority is sufficient. In a House of 542, if 100 Members are there and 51 Members vote, the executive has to leave. It is a simple majority. The Constitution does not provide for an absolute majority or a special majority. Can we have a device of this nature?

Now, the Upper House in India is not a House in which the Members nominated by the Head of the State are sitting. They are also Members elected by the elected Members in the State. The Members of the State Legislatures elect Members of the Upper House. So the character of the Upper House, Rajya Sabha, in India is not similar to the character of the House of Lords in England. If we provide, in our Constitution, that the no confidence motion has to be passed by both the Houses, it can provide a little more reasonable stability to the executive. I am just making suggestions. Not that these have to be accepted. We can throw them out. But these are some of the things which can be done by us to

provide a reasonable stability. I am, all the time, underlining the word 'reasonable stability' not 'absolute stability'.

Accountability is the principle which we have accepted by accepting the parliamentary system. This accountability should not be stretched to the farthest extreme which creates difficulties for us.

This is something which I just wanted to put before you.

"Constitution of India and national integration" is the third topic. In the Preamble of the Constitution of India, we have suggested that one of the aims that we want to achieve through this Constitution is to have the freedom given to the individuals and national integration. There is a chapter on duties which also mentions the national integration. The scheme of the Constitution itself provides for keeping the country united. We have not accepted a federal system as such. There is a doubt whether our system can be called unitary system, though the word 'Union' is used. Some people, some jurists say that it is federal in peace time and unitary in emergency. We will not quarrel with this kind of interpretation. But Parliament itself is a sort of binding force. In Parliament Members from all parts of the country come and sit together and discuss the national, provincial and international issues. All these provide a sort of forum for the representatives from all parts of the country to come and decide.

Of the judiciary, the High Court and the Supreme Court are also something which provide the mechanism for keeping the country united.

The three lists which are given in the VII Schedule are also drafted in such a fashion that it can keep the country united. There are certain subjects which are in the exclusive jurisdiction of the State Legislature, there are certain subjects which are in the exclusive jurisdiction of the Union Legislature. The concurrent list is also there. The arrangement is such that it can provide some uniting force. The administrative service is also one of the uniting forces. The defence forces also provide a united force. The Planning Commission—though it is not a constitutional authority—is something which brings the governments in the States and the government at the Centre together and it can provide the united force. The National Integration Council is created for this purpose. The National Development Council is also created for this purpose.

The common law system, which we have adopted is also responsible for it. There is a sort of ethos in our

country which has been telling us that there is unity in diversity. We find in the country that that is also helping us.

But how is the present situation, I think the disruptive forces are going stronger and stronger. What are the weapons used by them? The weapons used by them are the religion, the languages spoken and sometimes the economic issues also. The smuggling is also contributing towards the forces which are threatening the unity of this country. Well, it is very difficult to prove whether there is an interference from outside. But we all or most of us agree that there is an interference from outside. Sometimes the matters are not handled in a fashion in which they should be. And that has also contributed towards weakening the fabric of the national unity.

Sometimes, wittingly or unwittingly, some of us the politicians also contribute towards that by taking up the subjects which do not contribute towards unity but contribute towards disunity. In the present time, the availability of weapons—deadly weapons—the communication system and the transport system are also contributing towards weakening the national integration in the country.

What can be the remedy? I think the remedy lies in educating one and all for national integration and creating a sort of ethos for that. Some laws can be made, but laws themselves will not be sufficient to keep the country united. Good administration certainly can contribute a lot, and doing political, economic and social justice to one and all will contribute splendidly towards keeping the unity of this country and national integration very strong. We shall have to be vigilant against the external interference and we shall have to cooperate with each other and everything that we do has to be done with a vision, the decision has not to cope up with the present problems, but we shall have to understand the impact of the decisions we take in 10 years' time or 50 years' time, and the impact in one part of the country and the other part of the country and the impact on the entire system itself. If in that visionary manner, in that thoughtful manner we take the decisions, make the laws, make the policies, it can help us to keep the country united.

The fourth topic is "The Constitution of India in Precept and Practice". What did it want to achieve? Now it is given in the Preamble, in the Directive Principles of State Policy and in other parts of the Constitution. Has it achieved the goals? I think political democracy is available to all, but then the money power and the muscle power and casteism are

vitiating the elections which we are holding and if we do not find some solutions to these problems, they can still weaken the political democracy in India. Have we done economic justice or have we established economic democracy in India? I think much much remains to be done in this respect. Have we been able to establish social democracy? Have we been able to do social justice? I think much much remains yet to be done. Has it been possible for us to defend our country from external aggression? I think we have succeeded in doing that. Now, is there anything which we can do to strengthen the unity and national integration in our country. In my opinion there are two things which have to be there in the Constitution to provide a mechanism for cooperation and coordination between different parts of the country and the Union Government. Excepting for the Planning Commission, the National Integration Council and the National Development Council, there is no forum—of course, apart from the Parliament or the Finance Commission there is no forum where the Members of the Executive at the Union level and the Members of the Executive at the State level can meet for coordination and cooperation. The Planning Commission is not a Constitutional authority, the National Integration Council is not a Constitutional Authority, the National Development Council is not a Constitutional authority. All these are the fora where the National Executive and the State Executive meet and discuss. Should we do not have something in our Constitution which will provide a forum for the National Executive and the State Executive to come together, to discuss the ideas and formulate the national policies and implement them and to assess whether the national policies implemented, national laws made are producing results or not. In my opinion, that is something which has to be carefully looked into and provided for bringing about a sort of understanding at different levels and for providing a system which can help them to cooperate and coordinate with each other.

The second most important thing in my opinion is the question of planning. Today the world over we are accepting the principles of market economy, and I do think that the principle of market economy has a merit, it has to be accepted in certain areas. But will the principles of market economy solve all our problems? Can the principles of market economy solve the problems of education in India, problems of providing the health facilities to the people in India, to some extent the problem of transport? Will they encourage enough development of science and technology? Will it be possible for us to make use of the

ocean resources? Will it be possible for us to use the potentialities in the space and outer space? Now, will it be possible for the private companies to absorb the shocks which are involved in entering into new areas? There the State has to plan and has to come to the succour. If the State does not come to the succour, we will not explore new areas, we will not carry on with research and development, we will not enter the area of utilising the ocean resources and the space potentialities. So, on the one hand the principles of market economy can help us to increase the production in industry, on the other hand they by themselves will not be helpful in many other areas and we shall have to depend on planning, a short-term planning, a medium-term planning, a long-term planning, perspective planning, planning for entering into the virgin areas, unexplored areas, the physical and the mental areas, the ocean and the space and the mind of man also, it is necessary to have a sort of planning. Even small companies and the big companies plan. Without plan they do not carry on their trade and business and development. If the planning is required for small companies, is not planning required for the development of a nation? The planning at the national level may take into account what is happening in the world and what is required in the State and a broad outline of the plan can be provided. Details need not be given, details can be provided by the State Planning Commission. A broad outline, the direction, can be given, the priorities can be fixed, the direction which is visible in the world can be taken into account by the Planning Commission, and the broad outline prepared can be available to the people from outside the country and people in the State and the district and the lower level also. We can have a planning mechanism at the State level which takes into consideration the national plan and the plans made at the district level also. It can provide for the plans made at the district level and it can fix into the plans made at the national level. That also can be a macro level planning and not micro level planning and at the lower level, district level and the local level, the planning can be done in great detail to meet the day-to-day requirements of the people. If you have a mechanism of this level, the national level planning, the State level planning, the district level planning and the local level planning, at the highest level the macro planning, at the lower level micro planning, and the planning at the macro level considers the directions visible in the area of science and technology and in the new areas where the world is going, if we take into account and we plan in this fashion, I think we can avoid wastages,

we can produce result in shorter time and there can be correct direction provided to many of the activities, we would be accepting at different levels. So, the planning is something which is important in individual's life, in family's life, in a company's life, it is important in the nation's life and it will certainly be important to the life of countries in the world. So, we cannot throw this to the wind and say that without planning we will do. May be in the area of industry and trade everything cannot be planned at the State level and if the freedom has to be given, we should give the freedom. Nobody should be interested in keeping the things in one hand or keeping all the things in one hand and not allowing the liberty.

Liberalisation is necessary. At the same time, planning is also necessary and the balancing of these two things is necessary for which planning is one of the most important things. Unfortunately, planning is not mentioned in our Constitution. Can we have a chapter on planning, provide for the national level planning commission, state level planning commission and district level planning commission and can we provide as to what kind of planning should be done at the macro level and not the detailed planning? Planning fixing the priorities in the direction and not the small things should be mentioned. Can we have it and if we can have it, if the principles are also mentioned in the Constitution, probably, it can help us.

The third thing which is required in the Constitution is you can have elections to the Lok Sabha two times in a year or two times in two years. But you will not have elections to the district councils in 18 years or 20 years time also. Why is it so? It is because the Constitution provides that the elections have to be regularly held and thus elections to the Legislative Assemblies and to the Lok Sabha are regularly held. So, in some of the constitutions in the world, the three-tier system is accepted. In our country, we have accepted the two-tier system as is mentioned in the Constitution of India. Practically, there may be more tiers than two tiers. But in some other constitutions, they have mentioned what kind of national executives, state executives or provincial executives and district executives will be there. In some constitutions, they have mentioned about the local level executives also. It is not necessary to give all details about the executives at the local level and the district level. We can say that elections to the district level and the local levels will be held regularly. We can say what authority they will enjoy and what share they will have in the kitty of the Government and nothing more than that. Other details can

be provided by the local level. And if we have an arrangement of this kind in our Constitution, I think, on the one hand, there will be decentralisation and on the other hand, we would have worked for decentralisation in such manner or fashion as to provide democracy at all levels and to provide elements required for keeping the country going ahead with unity and integrity. Now this kind of a system is not available in our Constitution. Can we have it.

Coming to the judiciary, well, we are fortunate to have the kind of judiciary that we have in our country. But the judiciary is over-burdened. The cases are piling up in the courts. It is not possible for them to dispose of the cases and do speedy justice. And if justice is delayed, certainly justice is denied and if justice is hurried, then also justice is denied. So, we shall have to provide something which can really help the judiciary to dispose of the cases in a time frame in which they should dispose of the cases. So, if we have more courts, tribunals to deal with different areas of disputes, it can help us to some extent. In my opinion—I am not dealing with details of the judiciary here—legal aid is necessary because it is said that everybody is equal in a court of law. Everybody is equal in the eye of law and not in the courts of law because assistance which is available to the clients is unequal and so, it is not equal in the court of law.

That is why, legal education is necessary and that is why, legal aid is necessary. Something of that kind has to be provided in the Constitution. It is suggested in the Directive Principles that legal aid should be given and things like that. It may not be possible to do it in the Constitution but something more concrete, if it is possible, is required to be done. Now, these are some of the things which would be required to be done in our Constitution.

Ultimately, my last point which I want to make is that the Constitution is a law which has to be worked by the human beings. If those who are enforcing or implementing or working with the Constitution are not equipped to produce results and if they do not have the vision or the intention or the capability, then you may have a very good Constitution, yet it may not work. So, ultimately, it lies with those who have to work with the Constitution and produce results. But at the same time, if there are lacunae in the Constitution and if they are not done away with, then also difficulties can be created. So, our approach should be to train ourselves to use the Constitution in the best possible manner. At the same time, we

should see that if there any lacunae, they should be removed. Well, I have taken a lot of your time. But I just wanted to express my views on these points. If I have bored you, please excuse me. I hope many of these points will be discussed by you and your views on all these points will be very very valuable. I am not sure whether they will be accepted at all levels but they will certainly provide us a sort of guidance to those who are really involved in creating the situation which will be helpful, by amending the law and even by not amending the law. Thank you.

Shri Buta Singh: We are indeed grateful to our honourable Speaker for having given a very thoughtful inaugural address. Sir, you have unveiled the agenda of this seminar in all its facets in full length. You have also pulled out all the barriers on the scope of the discussion and the participants are now really feeling free to give expression to their thoughts on the issues which are confronting the nation today. We are passing through a very very critical period, both economically as well as for the future of parliamentary democracy. Your new ideas and original ideas which you have thrown in your inaugural address will definitely inspire the honourable participants in this discussion. It will be appropriate and very very useful discussion in the present context of our national life, specially when the unity of the country is threatened by all kinds of forces. We are lucky to have you, Sir, on this inaugural address and the thought-provoking speech that you have given. May I now request the honourable participants to join us for a cup of tea and afterwards, we will have the lecture to be delivered by the honourable Law Minister, Shri Vijaya Bhaskara Reddy on the theme of this seminar. It is a key note address which Shri Vijaya Bhaskara Reddy will read after we re-assemble soon after the cup of tea.

Now, I request all the participants to join us for a cup of tea.

श्री संघप्रिय गौतम: अध्यक्ष जी, अभी आपने कहा कि चाय-ब्रेक के बाद कानून मंत्री जी का की-नोट भाषण होगा, मेरा सुझाव है कि कानून मंत्री जी का मुख्य भाषण होना चाहिये इसलिये वे बाद में बोलें। मैं आपके सामने सुझाव दे रहा हूँ, कि आप एक्सैट करें या न करें। मेरा दूसरा सुझाव है कि लंच का टाइम 2.00 बजे तक बढ़ा दिया जाये, 2.00 बजे हम लंच के लिये उठें, ताकि ज्यादा से ज्यादा लोग लाभान्वित हो सकें।

Shri Buta Singh: We will see as we go along.

(TEA BREAK)

(After Tea break)

Shri Buta Singh: Friends, may I, on behalf of the participants of the Seminar, now request Shri Vijaya

Bhaskara Reddy, hon. Law Minister to deliver the key note address to the Seminar?

Shri K. Vijaya Bhaskara Reddy, Minister of Law, Justice and Company Affairs: Hon. Speaker, Shri Buta Singh, Speakers of various States, Judges, Ministers, Members of Parliament, and other distinguished members,

I deem it a privilege to address this distinguished gathering of constitutional experts, legal luminaries and other participants in this Seminar on "Constitution of India in percept and practice." I congratulate the organisers for appropriately arranging this Seminar during Dr. B.R. Ambedkar's Birth Centenary Celebrations.

The Constitution, as given to us by its founding fathers, has stood the test of time. It is true that we have made as many as 69 amendments to the Constitution during the course of last forty two years. However, as you know, some amendments were made with a view to effectively dealing with social and economic problems peculiar to our country. As Dr. Ambedkar observed, I quote:

"One likes to ask whether there can be anything new in a Constitution framed at this hour in the history of the world. More than hundred years have rolled when the first written Constitution was drafted. It has been followed by many other countries reducing their Constitutions to writing. Giving these facts, all Constitutions in their main provisions must look similar. The only new things, if there be any, in a Constitution framed so late in the day are the variations made to remove the faults and to accommodate it to the needs of the country."

Special mention may be made of provisions concerning land reforms as also the advancement of socially and educationally backward classes of citizens or the Scheduled Castes and the Scheduled Tribes. Provision is also made for giving effect to certain Directive Principles contained in Article 39 towards building of a welfare State. I would also like to refer to addition of the Tenth Schedule to the Constitution for containing the politics of defection.

Even after making all the above amendments we have not effected any changes altering the main features of the Constitution. The Sarkaria Commission on Centre-State relations has given its report. That Commission has not suggested any major changes in our Constitutional scheme, but emphasised the need to develop proper conventions for a healthy functioning of our parliamentary democracy. It is incumbent on all constitutional functionaries to

perform their duties under the Constitution in the true spirit of the constitutional provisions. As Dr. Rajendra Prasad said, I quote:

“After all, a Constitution like a machine is a lifeless thing. It acquires life because of the men who control it and operate it.”

Therefore, if we fail to live upto the mandate of the Constitution, the Constitution cannot be blamed on that count. Dr. Ambedkar said, I quote:

“I feel that it is workable, it is flexible and it is strong-enough to hold the country together both in peace-time and in war-time. Indeed, if I may say so, if things go wrong under the new Constitution, the reason will not be that we had a bad Constitution. What we will have to say is that man was vile.”

One often hears demands for radical reforms of the Constitution. Demands are often made by regional parties for giving more powers to the States in the name of strengthening the federal structure of the Constitution. Some others have favoured a Presidential form of Government. Some have called for redefining the powers of the judiciary alleging that the judiciary has become a super-legislature. Possibly these are reactions to give situations at a particular point of time. It would not be correct to attribute any problems which we may have faced or may be facing, to deficiencies in the Constitution. Our Constitution was drafted after taking into consideration, the constitutional experience of several countries of the world. It is as relevant today as it was at its inception. It is a fine blend of the best available elements in other Constitutions. So, if it is a patchwork, it is a beautiful patchwork.

Representative democracies will have no meaning without economic and social justice to the common man. This has been a universal experience. Freedom from foreign domination can be looked upon only as an opportunity to bring about economic and social advancement. Freedom is nothing else but a chance to lead a better life. This liberty to do better and live better is the theme of the Directive Principles of State Policy in Part IV of the Constitution. On this occasion, you would do well to examine the gap between promise and performance, between resolutions and implementation, between hopes raised and results achieved, between distance travelled and the distance that remains to be travelled and between our radicalism in principle and conservatism in practice. The concept of the State being neutral in social matters is a thing of the

past. Today, the State is the principal instrument for bringing about a just and social order.

The Indian Constitution is first and foremost a social document. The majority of its provisions seek to further the goals of the social revolution by establishing conditions necessary for its achievement. Even though in the legislation enacted so far, we had endeavoured to give effect to various Directive Principles of the Constitution, we have to go a long way towards fully implementing these principles.

We expect that the path of economic liberalism also would, in due course, show results and generate enough resources to enable the Government to take the country to greater heights of progress and, in the process, give a new meaning to the Directive Principles. The Chapter on Directive Principles should indeed become a charter of our progress and development, both economic and social.

In a number of areas affecting our lives, there seems to be a growing gap between what the Constitution proclaims and what is happening in reality. At a time when we need to make greater efforts towards attaining the goal of national integration through secularism and eradication of social evils connected with untouchability, we see that divisive forces and tendencies are taking roots in our country. The virus of communalism and of regionalism seems to corrode our national life. We need to strengthen the struggle for safeguarding the ideal of secularism enshrined in our Constitution. In an effort to separate religion from politics, we had enacted the Religious Institutions (Prevention of Misuse) Act, 1988 so that religious institutions were not utilised for promotion and propagation of political activities or for promoting disharmony between different religious groups. More recently, we have enacted the Places of Worship (Special Provisions) Act, 1991 with a view to prohibiting conversion of places of worship and to provide for maintenance of their religious character as it existed on the 15th August, 1947. We have also enacted the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989. However, law alone is not enough. All sections of the society must show the necessary will to overcome the divisive forces in our society.

I would also like to emphasize that there should be a proper balance between rights and duties of the citizens. We sought to achieve this in a small measure by inserting a Chapter on Fundamental

Duties in the Constitution. The Fundamental Duties are highly relevant today keeping in view the prevailing atmosphere of violence, terrorism and communalism. The country can march forward only if the citizens learn to attach equal importance to their duties as they do to their rights. The success of our Constitution and democracy would greatly depend on their sense of patriotism and their dedication to the progress of the country.

The Constitution-makers have meticulously defined the functions of various organs of the State. The Legislature, executive and judiciary have to function within their own spheres demarcated under the Constitution. No organ should usurp functions assigned to another. The functioning of our democracy depends upon the strength and independence of each its organs. Lately, there have been apprehensions that the principle of separation of powers is not being followed in its true spirit. Respect for that principle is indeed necessary for the smooth functioning of the Constitution and all the organs of the State.

The subject of today's seminar is quite vast. I notice that some specific issues have been listed in the programme of the Seminar. I am sure that the participants who are drawn from various disciplines would go deep into the issues involved and make meaningful suggestions for strengthening the democratic and constitutional processes in this country.

I wish the Seminar all success.

I thank you all.

Mr. Chairman: We are grateful to the hon. Law Minister for having delivered the key note address. I now propose to request the participants to express their views on the Agenda of the Seminar fixed for today.

I will read out the names that have been given to me so that the hon. participants could be ready. Hon. Law Minister will be followed by:—

1. Shri H.R. Bhardwaj, Minister of State for Planning & Programme Implementation;
2. Sh. Dr. Umeshwar Prasad Varma, Chairman, Bihar Legislative Council;
3. Shri Soli J. Sorabjee.
4. Shri Ishwar Singh, Speaker, Haryana Vidhan Sabha.
5. Shri Purushottam Goyal, Chairman, Delhi Metropolitan Council;
6. Prof. R. K. Nayak, Indian Law Institute;

7. Shri Jiba Kanta Gogoi, Speaker, Assam Legislative Assembly;
8. Prof. R.N. Thakur, Indian Institute of Public Administration; and
9. Shri J. Nath, Speaker, Tripura Legislative Assembly.

Shri H. R. Bhardwaj, Minister of State for Planning & Programme Implementation: Hon. Speaker, sir, Hon. Law Minister, Sardar Buta Singhji, Shri Om Mehta, Hon. Judges, Jurists, Presiding Officers from the States and my colleagues in Parliament and friends. For me it is an occasion of great significance to have been permitted to say a few words in connection with the celebration of the centenary of Dr. Ambedkar.

It is well-known that Dr. Ambedkar was one of the principal architects of the Constitution of India. He was one of the giants of our freedom movement and his continuous dialogue with Mahatmaji during the freedom movement and later on, paved the way for giving us this so well-documented Constitution. If one goes into the history of the freedom movement, one will find that Mahatmaji developed the freedom movement in a very harmonious way. Our country was torn by communalism and casteism and the society was fragmented. It is the work of Mahatmaji which brought unity into the banner of Indian National Congress and paved the way for the freedom struggle to succeed. Later on, Dr. Ambedkar and Mahatmaji joined together and on certain agreed principles and on certain principles which were in the larger interest of the society, Dr. Ambedkar was appointed the Law Minister in Nehru's Cabinet. You will find that the change in the thinking of Dr. Ambedkar as well as Mahatmaji brought about the heart and soul of this Constitution.

I am just reminding this august House about this background because without noticing the contribution of Dr. Ambedkar in the evolution of this Constitution, it will be totally futile to understand the philosophy of the Constitution. Our society has been a society in which thousands and lakhs of people were exploited for ages. The society was never equal. Whether it was the feudal regime or it was the British regime, there was always a temptation to keep the status quo. All those who were privileged, all those who were well-to-do wanted to cling to their status and all those who were exploited, who were weak, and who were dumb-founded were not allowed to raise their heads. This

was the reality of life of the pre-independence country. If we look back to the philosophy of the Constitution, we will find what Dr. Ambedkar started doing when the objectives of the Constitution were still to be fulfilled.

Before we say something on the philosophy of social justice, we must look to the economic side of the society because you cannot do justice to any person or to any society unless there are the same economic conditions or equal type of economic system available to the society. So, they thought that social justice must be coupled with economic conditions of the weaker sections of the society. As Hon. Speaker said, we are, to some extent, unable to bring political democracy in the country by giving reservation to the under-privileged sections of the society. But have we really translated the Directive Principles of the State Policy? There has been a conflict and I need not dilate on the decisions of the various courts that there has been a serious conflict on the Fundamental Rights and the Directive Principles of State Policy because those advocates of the Fundamental Rights did not see that without the success of the Directive Principles of State Policy, Fundamental Rights will cease to exist. Fundamental Rights are sacrosanct. They are the basis of human values. All these are very valuable, the principles of liberty etc., but in practice, on the ground reality if you go, where is the freedom to a man who is in a village? You give him one acre of land outside the village and the next day he is dispossessed from his house. Now, if you go that, then you apply your principle of equality to that man. If you consider that, then the question will arise: your principle of equality before law, equal protection of law, where is it in reality? That is where one must look to the Fundamental Rights as well as the Directive Principles of State Policy together and read them harmoniously. We really want equality in the Indian society and equal protection of law for all the society put together. But I do not find the reason why the movement of the Legal Aid in the country has not gained momentum. After all, there is some stumbling-block in the system which stops the Legal Aid Programme from getting along. There are several critics of the Legal Aid Programme in the country. I know most of them. But they do not understand the danger posed to the State or the Executive whether at the Centre or in the States. Several schemes are brought about; several programmes are introduced for the Scheduled Castes, the Scheduled Tribes, the tribals and the backwards. But what happens? They are implemented by the State. When they are actually brought into practice,

the result is otherwise. So, in the books they are in actual possession of certain properties, certain things given to them. But, in fact, somebody else is enjoying the fruit of that. So how can you bring about social justice to reality unless you have radical changes in the system of administration of justice?

Sir, you have courts for everybody. I have practised law for 35 years. I know the position. But where is the fight between the equals in the court? You have the outstanding counsels for the affordable people. They pay thousands and thousands of rupees for the services rendered on one side. What about a novice on the other side? Where is the fight between the equals? Essentially, our legal system is so complicated that the efficiency of the lawyer also counts in the success of the case. So, you must put both the sides on an equal footing. If you want to do real social justice to the backwards, harijans, the girijans, tribals, then you have to give equal, forceful legal protection to those sections of the society to stand on their own feet. You also know that there is a network of courts in the country. I do not deny that. There are courts up to the Taluk level. But courts also go according to the law. The law is equal for them. But the man who is facing the tragedy is not equal. So, I say that the State's intervention at this stage is very necessary. For that, Article 39(A) by which the Constitution was amended, must be taken note of so that the Directive Principles of State Policy succeeds. Then we can say with our heads raised with pride that in India everybody is equal; in India everybody enjoys equal protection of law; in India the rule of law prevails. We are happy about it. We can go on arguing about the Fundamental Rights and for some time the people will take it because the decision of the courts are widely respected in our country. But then the mass will suffer from this drawback of not being equal economically and the success of the constitution is not guaranteed. So, deviating from the main theme I would like to say that we understand that this Constitution is the best written document in the world. We know it is a very elaborate document also. We also know that the American concept of equality, fraternity and liberty is enshrined here. We are proud of that. But the question is: why are we shying away from calling that we are a democratic, socialist society? Without any commitment to democratic socialism and secularism, this Fundamental Rights' chapter has no meaning at all because when India became free, we were not a society of equals. There was vast portions of poverty in the country which still prevails. There is vast division in the society, which must be bridged, harmonised. That is

the unfinished task which is before us. Whatever social tension are there today, they are there. The hon. Speaker was right in saying that. He said that there should be proper planning. I am the Planning Minister of this country. I am preparing the Plan. We discuss for three hours etc. Every Chief Minister comes, meeting takes place and the Plan is finalised and then the micro-level planning is done somewhere. Whether that is actually done or not, I do not know. The question is: Has there been a serious debate in the country what should be the planning as far as this country is concerned? The hon. Speaker has raised a very vital issue and put it before the nation saying that the Planning should be done for those for whom the planning was meant.

Now, I would like to refer to Entry 20 contained in the Concurrent List. It says about economic and social planning *i.e.* planning for those who are socially weak, economically weak. What will you plan for those who have enough? What will you plan for those whose resources are so vast that they do not know how much wealth they possess. You have to plan it because there was a social commitment given by Dr. Ambedkar and Mahatma Gandhi together. They wanted that we must bring about democratic socialism. It finds a place in the Preamble of the Constitution. The first lesson of our Constitution is about this only. I can read out all the Directive Principles one after the other which the founding-fathers have put it elaborately. I am so proud of them. I am so enlightened to read what philosophy they had in their mind. But we are not able to grasp that philosophy today. We are today, no doubt, aware of our caste. We are also, no doubt, aware of our creed and our status in society. But we are not aware of what we promised to the teeming millions of this country when we became free. That is the occasion when we remember Dr. Ambedkar.

Sir, Dr. Ambedkar was a revolutionary. He was a giant in his own right. He persuaded Mahatma Gandhi so much that ultimately Mahatma Gandhi had to stay in a harijan colony at Kingsway Camp. He lived with the harijans. Is that spirit still prevalent in the interpretation of our Constitution? Have we been able to do that work in the States and at the Centre? That is the question before us when more number of speakers speak. When we argue the case in the Supreme Court and defend the Fundamental Rights, we protect the Directive Principles. So far, there is a departure in the Constitution, that is, the interpretation of the Constitution is totally against the Directive Principles. Pandit Nehru him-

self had to speak on the Fourth Amendment. I am not able to recollect those words fully well. But he said that these decisions; which are the stumbling blocks in the emancipation of the poor masses are the real problems for us because we cannot maintain the social order, social harmony, social justice and economic progress. We cannot maintain that unless we give a preferential treatment to those who are the Scheduled Castes, the Scheduled Tribes and the other weaker sections of the society. I am not making the society caste-conscious. Certainly, I am not. But certainly I am dedicated to that protective discrimination which Dr. Ambedkar as also all the founding-fathers of the Constitution, gave in the Constitution. That was a theory which was given against all canons of jurisprudence. But this theory has been appreciated throughout the world. People say that we gave the protective discrimination theory in the Constitution which is indeed one of the revolutionary steps taken by us in the matter of evolution of our Constitution. That is the message that must go down under the Centenary Celebration of Dr. Ambedkar. We can do a little work with this. That should be the first priority. We must try to do some work for an elaborate division of power between the Centre and the States. As a Minister, I cannot be that eloquent to say that today. There is tension today because we are eroding into the areas of the States. Most of the time, I find that there is a tendency to grab the power from the State. I am proud to say that the Prime Minister has made a beginning of off-loading certain schemes of the Centre to the States in the Planning commission, in the first meeting of the NDC. That was the beginning. The States and the Centre can have one or two meetings. Further, the NDC can sit and try to persuade the Centre to off-load more work for the States regarding certain schemes. They can do better than the Centre. It becomes almost difficult for me to say whether a particular plan or a project designed for the betterment of the people, has succeeded. For example, take the Family Planning aspect. I get the data in my computer saying that so much has been achieved. But when I put the next question how much population has gone down in the area, it is said that it has risen by 5 per cent. That figure does not reconcile with the work done on the population. Similarly, in the case of the 20 Point Programme and other programmes, the progress of work is shown on the paper but there is nothing on the ground reality. Regarding pure drinking-water hygiene, minimum wages, this is the tragedy. It is because we are keeping all these projects with ourse-

ives. The Chief Ministers, the District Councils, the Zilla Parishads, Panchayat Parishad can handle these programme much easier.

We are now celebrating the 100th anniversary of Dr. Ambedkar. And we are also celebrating so many centenaries of great giants of freedom movement. Some centenaries have already been celebrated and some are being celebrated. At least, now we must sit down together and decide which areas are of national importance because national prospective is also necessary. Then we can say that the Centre will look after this much keeping in view Articles 356 and 355 and the other areas should be left to the States and to the local Self-Government. And you will see the success.

You have to see that these backward and under-privileged, for whom we have committed for social justice, for economic emancipation, they get due participation. Whatever has been reserved for them under the Constitution we have to see to it that it is on the ground reality. If you deny them that, then you are shirking from your responsibility. The Britishers also gave reservations but they never gave social emancipation. So let that reservations be acted upon and then you can see how much is to be done in the society.

When we allot a house site to a Harijan, we give it to them outside the village. What is the philosophy behind it? Why do you not give them in the middle of the village? You are aware that when it is given outside the village, nobody lives in those houses because of security and other problems. We must start looking at the comprehensive society as a whole. The coming generations will take stock of what is given in the fundamental rights, Directive principles etc. And every mechanism of State administration, centre-State relations, all these things can be discussed and this is the best time, because we are preparing for the next century to come.

A beginning has been made by the hon. Speaker by throwing open all the topics and I am very grateful to you for giving me an opportunity. Thank you.

Mr. Chairman: Thank you very much. May I now request Dr. Umeshwar Prasad Verma, Chairman, Bihar Legislative Council to address the Seminar.

Dr. Umeshwar Prasad Verma: Hon. Speaker, hon. Law Minister, hon. Shri Buta Singh, hon. Shri Om Mehta, hon. Presiding Officers, hon. Judges, journalists and friends.

India after its independence was confronted with two basic challenges. The first lay in utilising political freedom as a means for economic freedom. And to this was added an equally important challenge of creating a new society in which justice-social and economic—would be given to all. The Constitution of India, no doubt, presents a framework of values and normative unity of purpose and direction to divergent forces, both economic and political, so that a new society can be created for achieving economic growth and social change.

These values and principles are embodied in the Constitution in the form of prime concepts of justice—economic, social and political—and equality of status and profession. Besides this, the institutional forms of parliamentary democracy welfare State, an open society are there which would form a means for achieving the objectives of economic growth and social justice. These instruments, no doubt, form the plank and pillars of the grand constitutional strategy, for a transition of the country to a new society for reaching the goal of economic growth and social justice. But I would like to say that these institutional forms are amendable to two conflicting interpretations.

The first interpretation was, no doubt, consistent with the normative principles which was upheld by Pt. Nehru himself. But the second interpretation was quite antagonistic to it. I would like to be permitted to say that unfortunately, the second interpretation, in due course, gathered strength and resulted in distortions. These distortions resulted in a great hiatus between the immense possibilities presented by the objective situation in the country and the weakness of the subjective factor. But I would like to say that the objective could not succeed fully in reacting its desideratum because a full release of the forces for the economic growth and social change could not be possible because of the distortions of thought and practice.

I feel that the Constitution in order to be an effective instrument of economic growth and social justice must also combine in itself institutional and motivational innovations which can subordinate personal gains to social welfare. This however, could not be.

Then, economic planning and an enlightened State were also conceived in the Constitution as prime promoters of a new pattern of development which can combine economic growth and social justice. And, finally, the parliamentary system was also introduced in the hope that would create form a favourable situation by which a large number of

under-privileged class would be an important factor which could influence the economic policies and also ensure effective implementation of those policies. But I would like to be permitted to say that the ethos, the idealism of the freedom struggle could not continue for a long time and soon commented an atmosphere of acquisitiveness. The result was that disparities appeared between regions and between classes.

Pandit Nehru himself, during his life time, posed two questions; who have appropriated the fruits of economic growth and national wealth and why the fruits of economic growth could not reach the masses. I would like to remind you, Sir, that the Maha La Nobis Committee on the distribution of income and national wealth was set up in this context. Then, so far as the Parliamentary system is concerned, it is true that it was conceived as an instrument to bring and promote a change. But, may I say that the Parliamentary system, as it worked in the country, favours the organised class against unorganised class and as it worked it also promoted and brought unfortunately a fast developing class of political operators who were not so much concerned about bringing social justice as they were concerned in exploiting backwardness for their own political ends. Naturally, the spirit of the Constitution could not actually be achieved; social justice and economic growth, as it ought to have been brought out on surface, could not be possible.

So, I would like to repeat that the Constitution, no doubt envisages a great change in the society; in the country; it envisages economic growth and social justice but unless it is added with an innovational and motivational impact on the people and on the political system, the high ideals of economic growth and social justice cannot be achieved; it has not been achieved so far and cannot be achieved in future, unless we educate ourselves in the spirit of the Constitution.

Thank you.

Shri Buta Singh: One hardly needs introducing the next speaker, Shri Soli Sorabjee, the former Attorney General of India. He is an eminent jurist, a great authority on the Constitutional Law, an erudite speaker, Shri Soli Sorabjee will now address the Seminar.

Shri Soli J. Sorabjee, Former Attorney-General: Hon. Speaker, Hon. Minister for Law and Justice, Hon. Mr. Justice Mohan, Hon. Buta Singh and friends, now there is one particular topic on which I wish to address and that is the topic of fundamental

rights. I would like to respond to some of the observations which Bhardwajji has made with regard to its relationship with the directive principles.

If there is one signed and tremendous contribution made by Dr. Ambedkar to the framing of the Constitution, it was part III of our Constitution which guarantees fundamental rights about which the debate in the Constituent Assembly lasted for 38 days and Baba Sahib said that this is the most criticised part of the Constitution. Now, mind you, fundamental rights for the people of India were not mere fashionable things which came into existence after the Universal Declaration of Human Rights or other international instrument of human rights. The demand of fundamental rights for the people of India was an article of faith. It was first articulated in 1895 by Bal Gangadhar Tilak in the Swaraj Bill. You find it in 1925 in Annie Besant's Commonwealth of India Bill; in 1929 the Moti Lal Nehru Committee stressed the importance of fundamental rights and made it a condition for the acceptance for any Constitutional framework from Britain. But, of course, Lord Birkenhead in his haughty manner said that they were all wild obstructions and the people of India were not fit for fundamental rights. In 1946 Sapru Committee also laid the greatest stress on fundamental rights. What I am trying to tell you friends, is that, this is something which was an article of faith with the people of India and when part III of fundamental rights was enacted it was a fulfilment of the dream for the realisation of which many of our freedom fighters had given their lives.

It is very interesting when you read the debates. When the chapter on fundamental rights was debated there was a division. There were two schools of thoughts; are fundamental rights going to be absolute? The obvious answer was that they cannot be absolute. Are there going to be limitations and what sort of limitations? What were the heads of restrictions? Who is going to determine whether the restriction is reasonable or unreasonable? The validity of the restriction—is it excessive or arbitrary? On one side the great Constitutional lawyer, Shri Alade Krishnaswamy said, we cannot trust those five gentlemen in the Federal Court to decide that the laws are good or bad for the country. On the other side, there were others who said we rather have those 4 or 5 gentlemen to decide the validity of the laws. Dr. Ambedkar realised that the sovereignty of the people was there for making laws. At the same time he also realised that in a country like India, where there were minorities, where there are various communal and linguistic interests majoritarian impulses

have to be checked and the best instrument would be an independent judiciary. Finally, a compromise was struck that the restrictions would be set out in the Constitution itself rather than have them spelt out as in America under the doctrine of Police Power and that the reasonableness of the restrictions would be determined by the judiciary and the judiciary in determining the validity of the restriction would take into account all relevant factors balancing the needs of the society with the individual rights.

It is my firm belief that over the years, aberrations apart, because no human institution is infallible, the judiciary has by and large uphold, sustained laws regarding socio-economic development. Wherever there have been problems and the problems were created by the right of property, that fundamental right of property was deleted in 1979 from the chapter of Fundamental Rights. What I wish to emphasise is, please do not subscribe to the view that the fundamental rights of the people, the basic human rights of the people, have come in the way of socio-economic progress or socio-economic growth. What has come in the way of their growth is lack of political will what has come in the way of growth are various lapses at various levels of administration. Do not make fundamental rights a scapegoat.

I agree with Shri Bhardwaj when he said that directive principles are as important as fundamental rights. I think there can be no two opinions about that. In fact, there is no conflict between the two. These are complementary to one another and as has been well said, together they form the core and conscience of our Constitution. Directive Principles are not forgotten by courts. I am afraid the fundamental duty of implementing Directive Principles is often forgotten by the Executive and that is where the courts comes in. Let me give you one instance.

Thousands of people were languishing in jail in Bihar for periods which were more than the maximum period of sentence they would have received if found guilty and got convicted. Under-trial prisoners languish for years. For the charge of theft the maximum punishment is for two years but they were there for 7 years. What happened; who came to the rescue? An article by journalist taken up by a public spirited human rights lawyer and the judiciary sprang into action. What did the judiciary do. It constructed the expression, "No one shall be deprived of personal liberty except by procedure established by law to mean a procedure which is just fair and reasonable." If a procedure is such that a man is deprived of his

personal liberty for a period more than the period of sentence upon conviction then that is not a fair procedure. Subsequently hundred of under-trial persons about whom everyone had forgotten—people forget them because they have no votes—they were released by the courts.

Now, you take the expression 'life' in Article 21.

Who gave full meaning to it? Who read the Directive Principles into it? The Supreme Court? It said life does not mean mere physical or animal existence. The right to life means the right to live with human dignity and right to live with human dignity means at the bearest food, clothing and shelter. That is how the Directive Principles were incorporated into the Fundamental Rights provision. But, there have been critics, the very people who tell us that we have forgotten the Directive Principles, point to this and criticise the Supreme Court and call it a super legislature. This was not the way they should view it. The best proof of the public interest litigation is that it enabled these valuable pronouncements to be made. So, what I am trying to say is please remember there should be no difficulty in harmonising both Fundamental Rights and Directive Principles. Let us not have any artificial conflict between them. The question whether you want food or freedom is a mischievous question. The answer would be freedom because it is my birth right and food because it is the obligation of the Government towards its citizens. There is no conflict. Let us work them together and let us remember that Dr. B.R. Ambedkar himself realised that the chapter on Fundamental Rights has its own checks and balances. No Fundamental Right is absolute. It is subject to reasonable restriction. Even when it came to non-discrimination, we have in our Constitution and I think it is its greatest contribution—provision for protective or compensatory discrimination in the Constitution itself. It was not left for the laws to be made; the founding fathers realised the situation and they made provision for it in the Constitution. So, friends, what I am trying to say is that our Constitution—unquestionably in the light of experience requires certain changes and many valuable thoughts have been given by Hon'ble Speaker. But, when it comes to our basic human rights and also the socio-economic rights in the Directive Principles, it is well preserved and it requires faithful implementation by the executive of their obligation under Part IV and judicious, creative, constructive interpretation by the judiciary of Part III. If we do that we shall certainly achieve socio-economic progress.

Shri Buta Singh: Thank you very much Shri Soli Sorabjee. With the permission of the hon. Speaker, I have to make a slight adjustment. Hon'ble Justice, S. Mohan of the Supreme Court has to leave early. May I now request Justice S. Mohan to address the Seminar.

Justice S. Mohan: Hon. Speaker, Hon. Law Minister, hon. Shri Buta Singh, distinguished men of learning who have gathered here, members of the Press and friends,

At the outset, I thank you for your kind invitation extended to me to participate in this Seminar which I consider to be an eventful and meaningful one which has set our thoughts rolling by the various speeches made today.

When I see before me the portrait of a man, I am reminded of those great words. "In the endless circle of time, a man becomes a legend and a legend becomes a man and it is that legendary man with his stupendous scholarship, enormous erudition, endowed with independence of thoughts, a born rebel who rebelled against injustice wherever it was and whoever committed that, a man who fought endlessly against inequalities, a man who built a pyramid single handedly namely Dr. Ambedkar who revolutionised the course of history, gave us one of the finest documents in the world, a document of great eminence, a document of enduring value namely the Constitution of India. Therefore, it can easily be said without fear or contradiction that he and he alone is the founding father of the Constitution. You may ask me 'why'? 'Yes', please consider times when the constitution came into force; when we promulgated the Constitution on the 26 January, 1950. But before that on 26 November, 1949, it is not a few parliamentarians, but we the people of India, we the people of India solemnly resolve to constitute India into a sovereign democratic republic and to secure all citizens—it is not those who live in five star hotels but even the poorest platform dweller, we the people of India have those great rights, those rights which are enshrined as Fundamental Rights under Part-III and those Fundamental Rights came to be ushered in as a matter of legal propositions for the first time in the Indian Constitution. We did not know the value thereof. But, slowly we came to know that these are great rights which every citizen has including some of the rights which even non-citizens have. Take for instance the equality. Equality is a concept so noble and so high. Dr. Ambedkar said there shall be equality, the reason why was he so desirous of having Article 14, he believed that all are equal in law and

all shall have equal opportunity of law. To use his own words. (He said in the Constituent Assembly:)

"It is the same heart which beats in every human breast".

Therefore, to him it mattered little whether one belonged to a higher class or lower class. When it was a subject of conversation, a conversation which was pregnant with meaning, he went to Mahatma Gandhi and said: "Babuji why I am fighting for my men because I am untouchable by birth". Babuji heard him as usual, patiently and said 'Dr. Ambedkar if you are untouchable, by birth I am an untouchable by adoption'. These words moved Dr. Ambedkar very much. Therefore, he thought that these ideals must be enshrined in the Constitution. That is the genus and the species Article 15 and Article 16 namely, the reservation.

Some often ask us if it is an equal society and an equalitarian society why should we have reservation. Those who ask that question do not know the history of India; those who ask this question do not know what had happened in the inglorious past. One third of the population may be subjected to such tyranny, such humiliation. It will take years and years and generation and generation to free them. If you require any quotation on this I do not think, I could do better than that of Swami Vivekananda:

"It is impossible to think of persons suffering indignities of various kinds for generations.

My heart aches to think of the conditions of the poor, the low in India. They sink lower and lower everyday. They feel the blow showered upon them by a cruel society, but they do not know whence the blow comes. They have forgotten that they too are men. My heart is too full to express my feeling. So long as the millions live in hunger and ignorance, I hold every man a traitor who, having been educated at their expenses, pays not the least heed to them. Our great national sin is the neglect of the masses and that is the cause of our downfall. No amount of politics would be of any avail until the masses in India are once more well educated, well read and well cared for."

This is what is required today if we really want to usher in social justice.

We have been talking of social justice. How has the Supreme court viewed Social justice is a matter which, I think, is relevant to be examined:

"The Constitution was to foster the achievement of many goals, transcendent among them

was that of social revolution. Through this revolution would be fulfilled the basic needs of the common man and it was hoped that this revolution would bring about fundamental changes in the structure of Indian society—a society with a long and glorious cultural tradition but greatly in need assembly of members believed of a powerful infusion of energy and nationalism. The scheme of social revolution runs throughout the proceedings and documents of the Assembly.”

It is this which requires to be implemented by courts, bringing about a harmonious construction between the Fundamental Rights which are invariable and the Directive Principles. As a matter of fact, Supreme Court has never failed to take note of the Directive Principles. Even as early as 1978, speaking of an important piece of legislation like Maternity Benefit Act, it was declared by the court:

“It has also to be borne in mind in this connection that in interpreting provisions of beneficial pieces of legislation like the one in hand which is intended to achieve the object of doing social justice to women workers employed in the plantations and which squarely fall within the purview of article 42 of the Constitution, the beneficent role of construction which would enable the women worker not only to subsist but also to make up her dissipated energy, nurse her child, preserve her efficiency as a worker, and maintain the level of her previous efficiency and output has to be adopted.”

This was the approach by the Supreme Court and, therefore, whenever an opportunity came, the court never lagged behind because it has found the great aspirations on the people of India to establish a social order, a social order in the right sense. That is why Justice Krishna Iyer, in his eloquent style, said:

“I regard parts II and IV as seminal provisions, seed-bedded as it were, and judges have to raise a harvest of new legal principles, prisoners’ rights, slum-dwellers’ equities, disabled people’s benefits, poverty law and humane criminal procedures and so on. We need for these more than precedent-fed court craftsmen.”

The court system is the sword and the shield of the entire people and it is answerable to them. It is not an imperium in imperio but is an instrument of the socialist, secular, democratic republic of India.”

Who could ever put it more eloquently? Then again, in 1979, the Supreme Court declared:

“The Constitution has expressed a deep concern for the welfare of workers and has provided in article 42 that the State shall make provision for securing just and humane conditions of work, and in article 43, that the State shall endeavour to secure by suitable legislation or economic organisation or in any other way, to all workers agricultural, industrial or otherwise, work, a living wage, conditions of work ensuring a decent standard of life and full enjoyment of leisure. . . . These are among the Directive Principles of State Policy. The mandate of article 37 of the Constitution is that while the Directive Principles of State Policy shall not be enforceable by any court, the Principles are nevertheless ‘fundamental in the governance of the country’ and it shall be the duty of the State to apply those principles in making laws’ addressed to courts, what the injunction means is that while the courts are not free to direct the making of legislations, the courts are bound to evolve, affirm and adopt principles of interpretation which will further and not hinder the goals set out in the Directive Principles of State Policy. This command of the Constitution must be ever present in the minds of judges when interpreting statutes which concern this, directly or indirectly, with matters set out in the Directive Principles of the State Policy.

This will be our guiding star and the principle at all times.

Coming to reservations, in 1985 it was so very well put in the following words:

“Ours is a country of great economic, social and cultural diversity. Often we take great pride in the country’s cultural diversity. While cultural diversity add to the splendour of India, the others add to our sorrow and shame. The social and economic disparities are indeed disparagingly vast. The Scheduled Castes, the Scheduled Tribes and the other socially and educationally backward classes, all of whom have been compendiously described as the ‘weaker sections of the people’ have long journeys to make society. They need aid, they need facility, they need launching, they need propulsion. Their needs are their demands. The demands are matters of

right and not of philanthropy. They ask for parity and not charity."

I can assure you that this will be our motto in the dispensation of justice. I am to remind this august assembly is if really we are to usher in social justice in the true manner which was envisaged by that great man Dr. Ambedkar and by that greatest of all the human beings India has produced and which perhaps even the twentieth century or the twenty-first century will not surpass, namely, Mahatma Gandhi, who could be described in the words of Joseph Addison: "unbounded and courage and compassion joined proclaimed him good and great" that greatness will remain unsurpassed". He told us long ago:

"I shall work for an India in which the poorest shall feel that it is their country in whose making they have an effective voice; an India where there shall be no high class and no class of people; an India in which all communities shall live in perfect harmony."

Let us strive hard, let us strive endlessly to make the dreams of these great men come true sure. Thank you very much.

Shri Buta Singh: We are very grateful to you for a nice speech. I now request Shri Ishwar Singh, Speaker, Haryana Assembly to address the seminar.

Shri Ishwar Singh, Speaker, Haryana Vidhan Sabha: Hon. Speaker, Lok Sabha, Hon. Minister of Law, Justice and Company Affairs, Shri Om Mehtaji, Shri Buta Singhji, Presiding Officers, Judges and journalists,

It is very good that this seminar is being organised in the birth centenary year—as part of birth centenary celebrations—of Dr. Ambedkar, who provided the Constitution to us and who got it passed by the Constituent Assembly. The Preamble of the Constitution states—I feel to quote it here—as follows:

"We, the people of India, having solemnly resolved to constitute India into a sovereign, socialist, secular, democratic republic and to secure to all its citizens:

Justice, social economic and political;

Liberty of thought, expression, belief, faith and worship;

Equality of status and of opportunity;

and to promote among them all

Fraternity assuring the dignity of the individual and the unity and integrity of the Nation.

In our Constituent Assembly this twenty-sixth

day of November, 1949, do hereby adopt, enact and give to ourselves this Constitution"

The concept of social justice—हमारे यहाँ पंजाब में एक मिसाल मशहूर है कि "जिसके घर में दाने, उसके कमले भी स्याने"।

The economic position is a must. Equality standardised to a pattern is against the law of nature as persons differ in capabilities—physically, mentally, morally and spiritually. आम कहावत है कि पाँचों उँगलियाँ बराबर नहीं होती हैं लेकिन अगर प्रैक्टिकली देखा जाये तो हमारी उँगलियों में दो और तीन का प्रोपारशन है, इससे ज्यादा नहीं है।

The gulf between the rich and the poor in the country is very wide. It must be narrowed. That was the aim of the Constitution. Even the social life depends upon the economic life. Those persons who are rich, who have more means are more respected in the society than those who are under-privileged.

It is said we should have equality of status and of opportunity. Let us take the subject of education. We are having different kinds of schools today. There are public schools. There are schools where seats for students are booked even well in advance of the birth of the child! There are other ordinary schools. This difference should not be there. We not only want to give free education to our children but we want to give good education. What is the present position today? In villages, in most of the States, there are not even teachers available. There are no blackboards and not even classrooms. Hence we shall have to bridge the gulf between the cities and the rural villages and small towns; between the rich and the poor. We should give them equal means of opportunity for progress. It is only then that social justice can be combined with the economic justice. Then only political justice will also be given.

Let us take political justice. Various means of conveyance, so much money and powers are actually there. We may speak anything. We may even give signed statement that we have spent this much of money only for election as an M.P. or an M.L.A. We give the expenditure statement as required by law. But everybody knows what exactly happens. The parties and the individuals contesting election spend vast sums of money.

I cannot say that we have not done enough or our Constitution has not done enough. India has progressed. There may be difference in the progress in different States. The intention of our Constitution-makers was quite good. They were all philosophers of the highest order. They had at the core of their hearts the conditions of the people of the country and whatever they thought would be good for the people

of India they did it and put it in the Constitution. Whatever they wanted to ameliorate the conditions of the people they have done. Its execution by the States and the Centre has also done a lot to bridge this gulf and also our economy has been boosted.

This is the country where not even pins were manufactured earlier. Now, we are very much advanced in the space technology and in atomic energy field. We have progressed well in agriculture, heavy industry and other fields. We are having technical personnel in every field. India has progressed by leaps and bounds.

In the field of labour class, Scheduled Castes and Tribes, children, women etc. we have done a lot. Different programmes were envisaged for their upliftment and put into practice. We have achieved a lot.

As regards agriculture, I may say that in States like Haryana and Punjab the production of wheat and paddy has even gone 8-fold and 4-fold. Similarly in milk production and other areas and in other spheres we have done a lot in solving the problems of the State. It is all because of the new direction given by the Planning Commission and the Five-year Plans. The bank nationalisation and nationalisation of insurance companies also helped in this direction. If the banks had not been nationalised, the money could not have gone to the villages and that has worked a lot. It is only with that money of banks that we now have our tube wells and tractors and mechanised farming system has come and also production increased. Even in Haryana and Punjab we see that we have to import labour, from other States. Had there been no mechanisation of the farming sector, we would not have achieved that progress?

Our Constitution has done a lot in raising the standard of production and in giving social justice. It is also for the courts to interpret it properly and specially to think about that poor man while giving them justice and interpreting the law.

As regards other progress, they are there in all spheres. In this regard I would like to quote a poem of Iqbal about Scheduled Castes:

आह शूद्र के लिये हिन्दुस्तान गमखाना है,
दरें इन्सानी से इस बस्ती का दिल कीरना है।

Earlier the people were treating the Scheduled Castes with a different feeling. They now treat them well. There is a wide difference now because it is a mental difference. It is a psychological difference. They are treated nearly at par with other citizens.

There is, however, a little difference. It still exists. If the economic conditions are good then even this difference will also go out.

I thank you for the opportunity given. Thank you.

Mr. Chairman: Thank you very much, Shri Ishwar Singhji.

Now I have to request the hon. participants to kindly shorten their remarks with a view to get more participants.

Before I call Shri Purushottam Goyel, I am tempted to give the floor to one of our most distinguished diplomats and a great scholar, Shri Badr-uddin Tyabji.

Shri Badr-uddin Tyabji: Mr. Chairman, Sardar Buta Singh, Ladies and Gentlemen, after listening to the very eloquent speeches made since morning I feel rather diffident in making only a few rather simple and practical proposals. My mind at the age of 84 has become more and more down-to-earth, and I would like to see the results rather than to indulge in fantasies.

I feel very strongly having been associated with the framing of the Constitution in a humble way, as I was a Member of the Secretariat which drafted it, that what is wrong in India has nothing to do with the Constitution. In fact, our Constitution could not be better, and there is really no need of going on examining again and again what is wrong with the Constitution. What is wrong is how we have implemented it. And we have never bothered to investigate and remedy that.

The Parliament meets every year, I do not know how many new laws have been passed, I have seen so many new regulations, I had thought India had a pretty good governing system about 50 years ago and the only thing was of how to carry it on democratic lines. I was a District Officer in those days and things like law and order matters were dealt with in a way that one longs to see being done again. Therefore, what I offer as a practical suggestion to the parliamentarians here is: Why don't they, from time to time, review the results of the laws that they have passed, and see where they have not come to expectations, and how they could be enabled to do it? Take for example, this tremendous fuss that was made about Shah Bano's case and the quarrels that we have about it within and between Communities which split the country. Why don't we now see whether the law passed in the heat of the moment on the Shah Bano's case is actually working, how it has been working, whether it has

achieved the results that were expected from it? Or whether something else has to be done about it? The same thing has to be said about the various reforms and development schemes that we pass. We pass the laws but really nothing goes forward, nothing happens as we have heard from the learned discourse of the Speaker. So many schemes of reform and improvement just do not get off the ground. Why don't we have to review? Why don't we stop introducing new legislation and review the old legislation to see where it has gone wrong, in what way it ought to be implemented and what steps should be taken to do it?

The fact is, as was pointed out by a great and sympathetic economists, we are still a very soft State, we are not able to implement what we profess and that is the principal task that we have to face. We have adopted a parliamentary system the norms of which we do not observe. We should translate and introduce them in practical terms in our legislation, and then make accountability one of the main factors of our political life.

Well, that is all that I want to say after having lived a long time in the midst of these affairs, and having reached an age where I can look back on several generations of people who have tried to do things better and have not notably succeeded.

Thank you, Mr. Chairman.

Mr. Chairman: Thank you, Sir. It is a unique honour to have you with us today.

Now, I request Shri Purushottam Goyel, Chairman, Delhi Metropolitan Council, to address the Seminar.

Shri Purushottam Goyel, Chairman, Delhi Metropolitan Council: Mr. Chairman and distinguished Members of parliamentary and judicial fraternity:

Nehru said in *The Glimpses of World History* that people who create a revolution, if they do not fulfil the slogans of the revolution, that way revolution is for those very people who created and, therefore, accordingly he had declared in the debate of the Constituent Assembly that 'India's survival depends on the achievement of social, and economic revolutions and if we cannot solve our economic problems, then all our paper Constitution will become useless and purposeless.' Accordingly we find that the values of growth and social and economic justice are enshrined, they find a relevant place in our Constitution and it is done through the Preamble, through Fundamental Rights and through Directive Principles of State Policy. The Preamble is a 'code key' of the Constitution. Fundamental Rights are the 'core-arch'

of the Constitution, and the Directive Principles are the 'compass-pointer' of the Constitution. The Preamble is the spirit, the vision, the direction, the fundamental guideline of the Constitution, it is the key to the study of the Constitution. Initially, in 1973 the Supreme Court opined that the Preamble is a part of the Constitution, though it does not have an article, and accordingly, later on the Preamble was amended to include the word 'socialist' and the word 'secular' so that it provides socio-cultural justice to the citizens of India. The Preamble, therefore, secures 'Justice—social, economic and political, Equality of status and opportunity and Fraternity'. The concept of justice and equality and the principles of economic growth and social justice are sanctified and they are a direct pointer to judiciary, executive and to legislature through the Preamble to the Constitution. In the Fundamental Rights—Chapter III—comprising 12 to 35 articles, they cover the right to freedom, right to equality before law, right to freedom of expression, regarding liberty, regarding exploitation, i.e., against exploitation, then right to freedom of religion, then culture etc. etc. They provide safeguards to liberty and freedom of expression of individual. They are inviolable so far as our Constitutional scheme of things is concerned. The Fundamental Rights guarantee the safety against the tyranny of a majority over minority so that nobody can invade the right of the minority and they are fundamental, they can be enforced against a State or its organs, they provide shield against all possible encroachments at the hands of any public authority or through custom or through usage. They are of two types—negative and positive. Negative is, for instance, ban on unequal protection, and positive is like freedom of expression. But essentially both imply security and equality of citizenship and minimum standards to provide equality of citizenship and socio-economic justice. The Directive Principles are again complementary to them, i.e., Fundamental Rights. Article 36 to Article 51 are complementary to Fundamental Rights, but I must say that Fundamental Rights emerged out of Westminster model, but Directive Principles emerged out of a background of socio-economic injustice faced by Indians and, therefore, though there is no conflict, but in case there is to be a conflict, then Indians should opt for the second one because here individual freedom is not as important as the society concerned. That is my personal view and therefore, these Directive Principles give full freedom to harald, to promote faster a truly socialist society, a welfare State aimed at economic justice, social justice and these

being fundamental guidelines for State policy, are comparable to the directions given under the 1935 Act to the Governor-General of India. These Fundamental Rights are ingredients of the Constitution. The Directive Principles are obligatory guidelines to the Constitution. Now, these are—I need not go into detail, but they concern the equal justice, village panchayats, right to work etc., then human conditions, then minimum wages, then promotion of educational and economic interests of Scheduled Castes and Scheduled Tribes and weaker sections, environmental improvement and so on. Then Article 39 is very important because it provides equality of opportunity, control of means of production, trade, then women, children and their strength and their future, and then separation of judiciary from the Executive, and promotion of international peace and justice. Now, for the stability of these rights, it is mandatory, as Dr. Ambedkar had visioned about, and it can be treated as commandments. This is according to Dr. Ambedkar and no lip sympathy is to be paid so far as our rights are concerned and our Directive Principles are concerned. These have accountability to our electorate and they are the mirrors of Indian policy. They remind us of the philosophy of Indian Constitution and the declaration of the aspirations of the people. Essentially, there is no conflict between the two. But in case they were, I would always go in for choosing and preferring the Directive Principles to individual Fundamental Rights which can be exercised only by the rich section of the society. In the end, I would submit that though we have achieved much, and we have had a planning process and a growth process, we had industrialisation, green revolution, white revolution, technological revolution, etc. and inspite of all up-goings, question marks remain. The rich is getting richer. What about the women? What about the exploitation of children? What about the legal aids going to the docks? The concept of Lok Adalats remains only at the higher level of the judiciary and it is not coming to the people. Land reforms are being scuttled by and Panchayati Raj still remains a dream. Exploitation of labour still continues as pointed by the Supreme Court and as confirmed by the National Labour Institute also. So, inspite of our achievements, inspite of our glory, the fundamentalists keep on moving and the process of planning is obstructed. Sometimes we feel that we are losing even the concept of Indianhood. So, acquisition of civilisation is overtaking all of us and the question has emerged that it is making Marich out of us. And there is a question which goes on echoing that

गांव की कच्ची दीवारों से कल पूछ रहा था कोई कि कितने घर ढह जायेंगे, तो यह एक महल बन जाएगा।

That is the question emerging in our minds. The system is losing kidneys and you have merely put it, Sir, that muscle power and money power all round distorts the system. There are vested interests and the system needs correction. What about the bill of rights for the disabled, what about the executive subversion of the legislature, what about the judicial conflict with the legislative wing, though, Mr. Chairman, you will not agree with it. But the underlying current in everybody's mind is parliamentary fraternity but very often we see its subversion. What about women representation in Parliament? Why is it in so small proportion? How can we glorify women if they come in small numbers?

I would like to sum up by saying that it is very easy to die for Dr. Ambedkar's but it is very difficult to live up to his ideals. It is always said that it is easy to die for the ideas of a person but difficult to live up to that spirit. Therefore, to sum up, I would only like to say, though there have been difficulties, still I am optimistic and so, I would say.

कुछ और बढ़ गए अंधेरे तो क्या हुआ
मायूस तो नहीं है अभी तक सहर से हम ॥

And finally Sir, I would say that we are all in the emerging history of trial and now, at the end, I would only like to sum up by saying

एक ही कदम उठा था गलत, रहे शौक में
मंजिल तमाम उम्र, मुझे ढूँढती रही।

I am sure we are not going to falter. We shall reach our destination on a glorious path to a glorious future.

Thanking you.

Shri Buta Singh: Why not a women representative? We are lucky to have amongst us today as the distinguished participant, Shrimati Shyamala Pappu, senior advocate of the Supreme Court of India. Now, she may take the floor.

Shrimati Shyamla Pappu: Honourable Speaker Sir, honourable Law Minister, Sardar Buta Singh, Shri Om Mehta, ladies and gentlemen, we have had a number of speeches and they have all been very heavy ones. So, I thought that I will say something, to begin with, in a lighter vein.

God announced to the world that he was giving the widest of plains to India. Someone protested, "Why are you so partial to India"? He said, "Not only that,

I am giving the highest of the mountains also to India". Then a person quipped, "Why all the good things to India only?" He replied, "I am giving the longest of the rivers also to India." Then everybody clamoured and said that he is very very partial to India because everything good was going to India. Then God said, "Wait till I put the people there. Then you will see that they will finish everything". Gentlemen, I think this is precisely what is happening to us. We are today, after four decades of the working of our Constitution, finding ourselves with so many question marks; so many queries remain. I sometimes wonder if the Constitution requires a change at all. I do say that it may require a change here and there, but basically, we have a very fine, most beautiful and most comprehensive document which covers every field of activity and every sector of the population in this country.

Now, to examine a little bit of our Constitution—I promise that I will not take more time than allotted to me since I am aware of the time constraint—If we look at the Preamble which has been described by the Supreme Court as the beacon of light that floods the entire Constitution and is the spirit of the Constitution. Fundamental Rights and Directive Principles are there but the beacon of light that is giving life and sustenance to all these is the Preamble where we, the people of India, have given unto ourselves a document which ensures justice, social, economic and political, liberty of thought, expression, belief, faith and worship, equality of status and of opportunity and to promote among them all fraternity assuring the dignity of the individual and the unity and integrity of the Nation. We, the people of India, have solemnly resolved to constitute India into a sovereign, socialist, secular and democratic Republic. Now the words 'socialist and integrity of India' were added in 1976. Why were they added? Though, at that time, the Constitution was being debated in the Constituent Assembly, everybody thought that the spirit of secularism permeated the Constitution and, therefore, it was not necessary to use the word 'secular'. But by 1976, divisive forces had taken charge of the situation and the nation was getting fragmented. integrity of the Nation was a big issue and therefore, in the 42nd amendment, the words 'integrity of the Nation and secular, democratic Republic' were added. I emphasise the secular aspect because I think the cleavages that we are facing today are because of the caste-ridden society in which we live. Baba Saheb Ambedkar wanted to destroy castes. He wanted to abjure caste. When he wanted to address a samiti—The *Jat Pat Thodak Samiti*—he was

called to give a lecture but when he did send in his script, the meeting was not held at all. In that script, which has been published later by the Secretary of that Samiti, he had emphasised the fact that if there was one thing which was dividing India, It was caste. Today, we have become so very caste-minded I think we have to sit down today to search our hearts and decastecise ourselves and we have to decastecise our Constitution as well. Remember that in the Constitution, the word 'caste' has been used in a prohibitive sense. The State shall not discriminate on grounds of caste, creed, race, sex, place of birth, descent and place of residence. This is Article 16.

Articles 14 and 15 use the expression "the State shall not discriminate" on ground of caste, creed, sex, race and place of birth. 'Place of residence' and 'descent' are added in Article 16 which is the equality clause, assuring equal protection of the laws and equality before the laws in regard to public employment. It is very important to note that Article 16 has these two additional things—descent and place of birth. Just because you are living in a village, you are not to be discriminated against. Just because you are the son of so and so (descent), you are not to be discriminated against. It is a basic human right which the Constitution emphasises. All are equal—man, woman, child, and everybody; every human being is equal. As learned judge has said, every human being has equal rights as every human breath beats in the same way; every human heart beats the same way. That is the principle of Articles 14, 15 and 16.

We will achieve national integration when we realise that it is a matter of human rights—it is a matter of basic human rights which the Constitution guarantees to us; and the fundamental principle underlying Articles 14, 15 and 16 is the basic human concept and all are to be recognised as equal in the eyes of the law. Again, national integration will be achieved, as was pointed out by the Hon'ble Speaker, when there is national planning, state level planning, district planning, panchayat planning and coordination among all of us.

I want to add one more thing that if the inter-State rivers in this country are to be treated as a national asset and if the Centre is to decide all their major questions so that one State does not say "I have excess water, but I am not going to give it to any State which is poor in water". Like a head of the joint family who realises that one member's requirement is a reality and another member is having something in plenty and there is a division among all who need that plenty. Inter-State waters, at any rate,

have to be declared as a national asset and in this context, I would invite the attention of this august gathering to the scheme which was enunciated long time ago by Shri K.L. Rao, when he was the Irrigation Minister and which was called the Ganga-Garland Scheme. It was very much debated and he wanted to connect Ganga waters with Cauvery. That is, if there is excess water in Ganga, that will go to those who do not have enough water in Cauvery. We have to feel that we are all one and it is only then, that we will really have national integration.

One word more about this business of caste which is eating into our entrails. Even the British did not think of caste after 1931. Even the imperialists who ruled us did not think of a caste census after 1931. Why are we ridden with caste today? Why are we thinking of it? The moment a name is mentioned, these days it is asked, what is his caste? Is he a Brahmin, or a Vaishya or a Bannia or a Shudra? This is the basic thing that is really eating up our entrails. That is why when the reservation issue was being debated in the Supreme Court, there was a suggestion that since the census was going to be held, a column should be included for caste and then the caste census should be taken. I for one, opposed it most violently and most vigorously and fortunately that was not carried out. Otherwise, we would have had a caste census in 1990, after having given it up in 1931, under the British rule. Therefore, honourable Members, my suggestion is that we should really secularise ourselves, de-castecise ourselves. It is only then that the Constitution which is such a beautiful document can be worked without fear favour, without any distinction. What is happening is that the caste criteria which is being applied and reservations which are being made indiscriminately are creating heart burn because they are not really helping the poor. The Supreme Court in 1985, in K.V. Vasant's case says that experience shows that the rich are becoming richer and the poor are becoming poorer. The cream of reservation is being taken away by the rich and well to do among the backward classes. Therefore, to my mind, there are only two classes in any section in the whole world. They are 'haves' and 'have nots'. You provide for the 'have nots'. Today's 'have nots' will be the 'haves' of tomorrow.

As they progress and rise, you will see that they do not require reservation. Then, there will be reservation without any heart-burn. Even the Supreme Court in a number of cases, decided saying that the reservation policy should be reviewed every five years. You must see who is really needy and who should be the recipient of benefits. If this is how we

will work the Constitution, Article 14 will become a reality because Articles 14, 15 and 16 talk not only about equality, but they also talk about making reservations for those who do not have enough.

These concepts underlying Articles 14, 15 and 16 are so basic and are of such importance that these concepts were included in the Constitution at the very inception. The Equal Rights Amendment, could not be passed in America, which is considered developed and advanced. We who are poor and struggling gave ourselves these beautiful concepts long ago.

With these words, I thank you for giving me the opportunity to speak. Thank you very much, indeed.

Prof. R.K. Nayak, Indian Law Institute: Hon. Speaker, Hon. Law Minister, Sardar Buta Singh Ji, Hon. Shri Om Mehta, distinguished parliamentarians, constitutionalists, journalists and friends.

I would like to make a few observations on the area of social justice. Social and economic justice are the bedrock of our civilisation. The phrase social justice has uncertain and changing boundaries. It is in the same sense as the oceans and great rivers do not change their course but have purposeful meaning and existence. Social justice is not a constitutional rhetoric or political thunderbolt meant for dramatic effect and public speeches. But the Constitution of India very well emphasizes in clear terms on justice, social, economic and political in the Preamble of our Constitution. That Preamble itself concisely sets out the quintessence of the social justice. The ancient law giver Manu said and I just quote:

"Justice, being destroyed, will destroy; being preserved, will preserve; it must never be violated."

James Madison, one of the architects of American Constitution, expressed in very fine words:

"Justice is the end of government. It is the end of civil liberty. It ever has been and ever will be pursued, until it is obtained, or until liberty to be lost in the pursuit."

We all know that the Indian thoughts having travelled to the length and breadth of the earth several centuries ago and in turn absorbed views, values, arts and sciences, from far off civilisations. The great tide of human rights which found expression in several international instruments after the Second World War moulded the thinking of the founding fathers as enshrined in our Constitution. For the oppressed and suppressed people, liberation has no meaning unless it guarantees the social and

economic egalitarianism and anti-exploitative human order. In some parts of the world, coloured people were claiming human justice which was militantly social and economic. The struggle of man for social, economic justice is the same whether it is in Asia, Africa, Europe or Latin America. Justice in its triple aspects means social, economic and political and is the primary goal of our Constitution, based on social dynamics. Harijans in India, the blacks in America, coloured people in Great Britain are the victims of social injustice. But, liberty, fraternity and dignity of the individual have an impact on social justice.

Obviously, there is negation of social justice if a person, group of persons, minority or a class of people are kept under apartheid and subjugated to socio-economic disparities. Economic injustice, ancient and modern, is pervasively existing in India in its dreadful shape and forms. Please allow me to say that palaces and pavement dwellers, five star hotels and horrible kind of slums and hovels, large farms and neo-rich, on the one hand, and half-clad beggars, destitutes and myriad disabled people, on the other, all present a pathetic picture of our country and reflect also our age old heritage and developmental process after freedom. Inequality and disparity in status and opportunity are pervasive in our national life. Harijans and Girijans are the worst sufferers as they have little education. Untouchability, communal hierarchy and other violations of equal status are present freely in our social order. Gandhiji fought all his life to end these evils and ultimately fell to the bullet of an assassin. Pandit Nehru, from the days of freedom struggle laid emphasis on secular, socialist and fundamental human rights in our social order as the very essence of liberation movement but he had his limitation due to the prevailing social inequalities and economic disparities. However, Parts III and IV and later parts of our Constitution strengthen the scope and purpose of social justice. Articles 14 to 16 are comprehensive enough to provide equal protection by the law. Article 14 provides equal protection of the laws and demands the making of protective laws and applying them in the spirit of equalisation on a dynamically conceived result basis. Here we have to think how far we have succeeded in our attempts after independence. Justice V.R. Krishna Iyer said "the wright of judicial humanism and executive activism must be thrown into the scales of the weaker sector when implementing the equality imperative. Freedom, justice and equality are inseparable in their essence."

Herald J. Laski stressed on the economic content of liberty. So did Jawaharlal Nehru. What freedom is

enjoyed by slum-dwellers, destitutes and semi-starving persons of our population? Freedom is what freedom does. Freedom from food is starvation, freedom from clothes is nudity, freedom from shelter is homelessness and freedom from life is decisively death. The New World economic order promotes the concept of social justice as inalienable from human freedom. Indian concept of social justice includes abolition of slavery and semi-slavery (bonded labour).

Article 23 forbids traffic in human beings and forced labour. It forbids traffic in human beings and begar and forced labour. Article 24 of the Constitution prohibits employment of children in factories or in any kind of risky work. But these are well-placed provisions in the Constitution of India but they are not practised in reality. Leo Tolstoy well stated regarding gap between theory and practice and said:

"The abolition of slavery has gone on for a long time. Rome abolished slavery. America abolished it and we did, but only the words were abolished, not the thing."

The story is similar as regards other social vices like caste and sex discrimination in our daily lives. While they are abolished in law, in practice they still persist and indignities also exist in various forms as national disgrace.

On this occasion of Dr. B.R. Ambedkar's birth centenary celebrations, we should remember Dr. Ambedkar who aptly said:

"These down-trodden classes are tired of being governed. They are impatient to govern themselves. This urge for self-realisation in the down-trodden classes must not be allowed to devolve into a class struggle or class-war. It would lead to a division of the house. That would indeed be a day of disaster. For, as has been well-said by Abraham Lincoln, a house divided against itself cannot stand very long. Therefore, the sooner room is made for the realisation of their aspiration, the better for the few, the better for the country, the better for the maintenance of its independence and the better for the continuance of its democratic structure. This can only be done by the establishment of equality and fraternity in all spheres of life. That is why, I have laid so much stress on them."

With these words, I express my sincere gratitude to the Parliamentarian Group and the organisers for giving me this opportunity.

Thank you very much.

Shri Jiba Kanta Gogoi, Speaker, Assam Legislative Assembly: Mr. Speaker Patiljee, Buta Singhjee, Om Mehtajee, Hon. Ministers, Hon. Presiding Officers, Judges, M.Ps. and all members present in the House, I would like to speak about the Constitution of India which is an instrument of economic growth and social justice. The Constitution of India is a magna carta of the economic development and prosperity of all the citizens of the country. At the time of framing the Constitution, the framers had a plan on the economic development of the whole country. The Father of the Nation, Mahatma Gandhi, advocated economic equality and he preached prosperity, economic development and happiness of the country. Dr. B.R. Ambedkar and all other framers of the Constitution also advocated and wanted all round economic development of the country so that the economic condition of the people of the whole country goes up. The framers of the Constitution advocated justice, social, economic and political. The provisions of the Constitution, as we have seen, are very extensive and elaborate, so far as the economic development are concerned.

On Fundamental Rights, Article 19 has not only given equality to propagate trade and commerce but has given equal rights also.

Articles 298, 301, 303 and 304 advocated economic development of the country.

In the background of all these provisions, India has made rapid progress during the last 45 years.

But in fact after 45 years of our independence, if we look back on the objects of the framers of the Constitution and the present set up, things are not what they seem. After so many years, there is a wide gap in the economic conditions of the people. The rich became richer and the poor became poorer.

That is why, after four decades, we have to look back to the provisions and see what we can do. We must find out what are the reasons, and why poor have become poorer and the rich richer. A person owning one company at the time of independence, has now become the owner of 40 companies.

The condition of the poor, rural masses has gone down and down. Of course, the Constitutional safeguard has been given. At the same time, why have their conditions gone down? Why have they not developed together? If we do not look into these things, the country will suffer further. The framers of the Constitution wanted equal development, equal progress, prosperity of all the people. But if we do not look into these aspects, those ideals cannot be

achieved. So, I think some more provisions should be made particularly for the economic development, economic growth of the country, economic prosperity of the people. Some amendments should be brought forward to the present provisions also so that they can develop equally. I would like to say that Articles 302, 303, 304 should be reviewed because they were made some 45 years ago. But in the present context of new social order, some amendments should be made. Some industries were there at that time. But nowadays, there are so many illegal trades and commerce developing. If there is no control and check, they will spoil the younger generation. These matters should be taken care of. In my opinion, for the economic development, in the present day context, we should keep a legal-line, cut-off line at the grass-root level. The poorer sections of the people are the backbone of the society. More than 75 per cent of our population live in the rural areas. If they do not develop economically, if they do not progress, they will not prosper. If that condition continues, this country cannot develop. Keeping in mind of their development, the Constitutional provisions should be looked into in a different way so that a new social order, a new generation and a new society can be brought out with all prosperity and happiness.

So far as social justice is concerned, in our Constitution, more than 30 Articles are there. The framers of the Constitution were so much keen about the safety, development and the security of our society. But I ask: What have seen all these days? Instead of social justice, social injustice is every where. Article 14 has given equality before law to everybody. In practice, are we doing that? Is it put into practice? Similarly, Article 15 is about prohibition of discrimination on grounds of religion, race, caste, sex or place of birth. That contained in our Constitution. But in practice, are we doing that? So, regarding social justice, we should think in a new way so that we can give equality and equal status and safeguard the interests of the poorer sections and backward sections of the people.

So far as social justice is concerned, the framers of the Constitution were very keen about giving safeguard to the poorer sections, the minorities, the Scheduled Castes and the Scheduled Tribes. All the safeguards are there. That will be only there on the records and books. Are we really implementing those safeguards in a practical manner? But as I told earlier, these safeguards are there in the books. But in practice, what we have seen is that untouchability still exist, in our society, the downtrodden and the toiling masses are always looked down upon in this

way. So, there will be no social justice if the implementation part of it is not there. So, all the provisions which are existing in the statue book should be implemented. Also, in the Constitution, there should be some more provisions in regard to the safeguarding the interests of the poorer people. There should be some more articles so that the provisions are implemented in letter and spirit.

The Hon. Speaker has mentioned one thing about Planning. I think without planning a nation cannot develop and progress. So, I also express that there should be planning in the major areas in order to have economic development or to have any social justice. If we do that, we can give equality before law to all people, proper justice to all.

With these words, I conclude. I thank you for giving me this opportunity.

Prof. R.N. Thakur, Indian Institute of Public Administration: Hon. Speaker of the Lok Sabha, Hon. Shri K.Vijaya Bhaskara Reddy, Sardar Buta Singh, sisters and brothers,

It is a rare privilege to have come to learn from the galaxy of wise men sitting in this hall. There is a Biblical saying: "Suffer unto thee". The mind which suffers most, creates most. Dr. Ambedkar is such a mind. There can be no better tribute to such a mind than to reflect upon the creation of his mind, his vision what we today know as the Constitution of India.

I

The Constitution is a model; a model is a representation of the reality and not the reality itself. A model is an abstraction, very close to an ideal which every nation and its people strive hard to achieve. It is a different matter whether that ideal is achieved or is at least achievable. To my mind, the Constitution has its limits in the sense that it is an instrument in the hands of four main pillars of India's democracy—the Parliament, the Judiciary, the Executive and the people—to be amended by the Parliament, to be interpreted by the Judiciary, to be implemented by the Executive and to be accepted by the people.

II

So, the Constitution remains an instrument and also an ideal of how the reality can be shaped. The actual shaping will depend upon those who handle this instrument. It is a truism that there is always a gap between the ideal and the real. Economic growth and social justice through the instrument of the Constitution are bound to suffer a gap. If we look at Articles 38, 41, 42, 43 and 46 or Part-IV of the

Constitution of India; and the Preamble; the concepts of Growth, Justice, Welfare appear rather elusive but attractive.

Article 38 says:

"The State shall strive to promote the welfare of the people by securing and protecting as effectively as it may a social order in which justice, social, economic, and political, shall inform all the institutions of the national life."

Article 41 says:

"The State shall, within the limits of its economic capacity and development, make effective provision for securing the right to work, to education and to public assistance in cases of unemployment, old age, sickness and disablement, and in other cases of undeserved want."

Article 42 says:

"The State shall make provision for securing just and humane conditions of work and for maternity relief."

Article 43 says:

"The State shall endeavour to secure, by suitable legislation or economic organisation or in any other way, to all workers, agricultural, industrial or otherwise, work, a living wage, conditions of work ensuring a decent standard of life and full enjoyment of leisure and social and cultural opportunities....."

Article 46 says:

"The State shall promote with special care the educational and economic interests of the weaker sections of the people, and, in particular, of the Scheduled Castes and the Scheduled Tribes, and shall protect them from social injustice and all forms of exploitation."

III

Sir, the principles contained in these Articles of the Constitution are fundamental in the governance of the country; they may not be justiciable. The doctrine of harmonious construction also supports that the Directive Principles of State Policy and Fundamental Rights form an organic unit.

So, our Constitution provides for what I call as a fused model, a good blending of the residual model with marginal responsibility of the State; the achievement performance model of the capitalist societies, and the institutional redistributive model of socialist societies.

IV

One can clearly recognize the inter-relationship and inter-dependence of economic and social development. It does not make the task of Government simpler. Its implications are not always apparent in governmental policies.

Let us look at the three aspects of our national life. Firstly, the population structure of our country: the proportion of potentially dependent, inactive group in the population such as the handicapped, the aged, the women and the children in need of care; the marginals, i.e. the victims of floods, droughts, earthquakes, riots and terrorist attacks. Secondly, the per capita income which gives some indication of rates of growth; then the kind of economic and social planning and their achievements towards two closely related goals, such as, full employment on the one hand, and comprehensive social security system on the other hand. These goals have largely remained unmet. The economic growth and social development and social justice must go hand in hand.

V

In effect, the actual planning for these goals has been piece-meal, static and on a short term basis. High rates of investment in these areas are very much needed.

We have a long way to go in the areas of social security, particularly old age security, unemployment insurance, old age assistance, disabled persons allowance, blind persons allowance; the housing—the cost of which is very much escalating; education—the cost of tuition in private schools, public schools, admission in Government institutions are frightening; the health services, which are so poor.

VI

And then ordering of priorities. It is known to us that in India the resources are very limited, often untapped, under-utilised. Even many of the basic services have still to be provided. Besides the regional issues, there are questions of distribution of power and resources between the Centre and the States, and the disruptive forces that are raising their heads. So, ordering of priorities is very important.

At the same time, the seminal influence of major reports, (and one such report created a stir in the country over these years;) surveys and the press—(for more popular consumption)—cannot be underestimated.

VII

Conclusively, an arrangement has to be evolved through a close-knit functioning of the Parliament, the Judiciary and the Executive through the instrumentality of the Constitution to secure economic growth and ensure social justice to the people who are the sovereign. This kind of a Seminar provides an opportunity to sit together, to reflect and to act firmly.

But sadly enough, there is more conferencing and less acting. I do not know how long this will continue to satisfy us. Hon'ble Chairman, Sir, I may be allowed to conclude by invoking that Upanishadic dictum,

“उत्तिष्ठत जाग्रत प्राप्य वरत्रिबोधत”

“Arise, Awake and Stop not till the Goal is achieved.”

“क्षुरस्य घारा निशिता दुरत्यया दुर्ग पधस्तत्कवयो वदन्ति”

(कठोपनिषदः तृतीय वल्ली: 14)

Such is the message that Dr. Ambedkar through the Constitution conveyed to us. And this is what we need to seriously reflect upon and having reflected upon very firmly act.

Thank you very much.

Mr. Chairman: May I now request Prof. C.P. Thakur, Member of Parliament, to address the Seminar.

Prof. Chandresh P. Thakur: Mr. Chairman, Shri Buta Singh, hon. Law Minister and hon. Speaker:

It is an opportunity to exchange views. I have listened with great care the views expressed which have come from learned sources. I must compliment the three collaborating institutions for having thought about such a theme on an occasion which is of great significance for the country. And what we deliberate today will have some contribution to make for the days ahead. The theme, the sub-theme and the occasion together give us a rich opportunity to reflect frankly in a spirit of introspection. The Constitution which is a reference point here, is for all of us to reflect from, reflects the wisdom and the wisdom of the founding fathers. Dr. Ambedkar who was an illustrious son of India and an epitome of wisdom as well as strategic vision. He not only reflected in his thinking the likely changes and built the appropriate provisions within the Constitution so that it could be responding automatically to the changes that will come in the years and decades ahead. It is a fascinating document for its combines accumulated wisdom of that time and it also blends with it the capability of resilience.

Now coming directly to the theme emerging out of the key-note Address of our hon. Law Minister who thought that the Constitution is an instrument for economic growth and social justice. Are we talking of either or are we talking of certain consequences? And if we are talking of not either or but both then what is the kind of equilibrium and balance and what the appropriate instruments through which such a balance can be brought in? Let us confess at this moment in all honesty that we have had insufficient growth and during all these years of efforts for growth, we have inadvertently, certainly not consciously, aggravated inequalities of all the varieties. And the time has come and this Seminar give us the opportunity to think about the ways, how to redress it? How to accelerate growth and how to ensure better social justice not again in the either/or but in a balanced way.

Now the State in Indian condition has been envisaged as an instrument for economic growth as well as for accelerated social justice. Our founding fathers did not think it appropriate that in the absence of State intervening strategically in the economic life, we will have desirable growth, sufficient growth. We have had certain growth, certain patterns of growth. And today, we are asking among the community of economists also what are the appropriate indices of growth? Is it per capita income? Is it the rate of economic growth or should there be some social parameters? And I believe there is a change in the thinking that mere economic calculus, cold blooded economic variables will not alone ensure that there will be growth but acceptable growth.

It is the non-acceptable growth which will create problems. We have had problems of inequality with agricultural Vs. industry or one industry towards another industry. Then we have inter-regional inequality: We have resources producing States but not resources using ones. We have had problems of inequality across social categories. If you look at the social parameters, at the base of the social parameter there is conversion of caste and as we move vertically upward this conversion moves into divergence. Then we have had the problem of inequality across the economic categories; that is the producers of agricultural wealth, producers of industrial wealth, producers of science and technology or whatever it may be.

Now, we can continue to debate but what I am doing today, Mr. Chairman, is to highlight some of the questions of not only desirability but feasibility. Good words have come up to a point but to make them better requires a lot of hard work and some

cold blooded decisions through the instrument of implementation. I think Badrudeen Taaiyab put his finger at the right point that there is nothing wrong in the Constitution but when it comes to its implementation there are many a slips between the cup and the lip.

I think in the Parliament we have a lot of decorative things particularly when we talk about Constitution. A lot of Constitutional amendments are made, I am sorry to say, as an exercise in tokenism. The Parliament should think about the instrumentality of accountability. Once the Members give you the note of the intended amendment, what exactly the Parliament is doing to convert it into a reality in terms of the benefit emerging out and reaching out to the target community. Mr. Chairman, Sir, our problem in the development field, so far as the socio-economic growth criteria and all that is concerned, is that we still have a low way to cover so far as the basic needs are concerned; how do we keep the country together. When the basic things are not met we have problems. When Shri T.T. Krishnamachari was the Finance Minister, he said that the country needs a strategy of levelling up. I believe he did not confine levelling up in economic criteria, in social criteria and also perhaps in the political sense. The economic prosperity must be shared from the haves to the have nots and the social inequalities must be overcome. How do we get it in a situation where we are trying to have planning now.

Planning tries to promote growth with social justice. The market forces will be working in a cold blooded manner and the spirit of competition will require have notes to be whiped away. Mr. Chairman, all I can say is that in all these years we have had a lot of good things but the fact that the Indian founding fathers did not think as seriously as they should have on the instrumentality of accountability, we have found ourselves in a situation where we have slipped in such areas where we are committed much more honestly. May be in the years ahead, in decades ahead these conversions will help us to think about the possibility to strengthening the system within our framework.

Thank you Sir.

Shri Buta Singh: Now, I am left with one choice. I have a couple of names but I can allow only one speaker before we adjourn for lunch. So, I will request Shri Sanghpriya Gautam to complete his

speech by 14.00 hours. About other speakers which are on my list, I would request them to kindly make us available their written speeches so as to form part of the proceedings of the seminar because after lunch we are going to pass on to the next subject.

श्री संबन्धित गौतम: आदरणीय अध्यक्ष महोदय और संविधान शास्त्रियों। मैं तो यहां बहुत कुछ सीखने के लिए आया था और बहुत कुछ सीखा भी, लेकिन अभी तक मैंने उन लोगों को सुना जो संविधान के विशेषज्ञ हैं। एक ग्रास रूट लैवल वर्कर का संविधान के बारे में क्या विचार है, इस दृष्टिकोण से मैंने बोलने की हिमाकत की है और दूसरे, जब नेशनल इंटीग्रेशन की बात कहते हैं। तो इससे पहले मैंने देखा कि यहां पर जजेज बोल रहे हैं, ज्यूरिस्ट बोल रहे हैं, प्रोफेसर बोल रहे हैं, विधान मण्डलों के अध्यक्ष, उपाध्यक्ष बोल रहे हैं तो संसद सदस्य क्यों भाग न लें, इन्हीं दो दृष्टिकोणों से मैंने अपना नाम दिया था। आज जब हम इस विषय पर चर्चा कर रहे हैं तो दो तरह के दृष्टिकोण हमारे सामने आ रहे हैं एक पक्ष और दूसरा विपक्ष। “संविधान सक्षम है और संविधान अक्षम है”। जब संविधान निर्माताओं ने इस संविधान को बनाया और बाबा साहब डॉ॰ अंबेडकर ने संविधान सभा के सामने प्रस्तुत किया उस समय भी यही दोनों तरह के विचार थे उस समय बाबा साहब ने 25 नवंबर 1949 को संविधान सभा के सामने अपनी मानसिक कलह का उल्लेख किया था और कहा था कि लोग क्यों संविधान का विरोध कर रहे हैं। मैं उस कंट्रोवर्सी में नहीं जाना चाहता लेकिन एक बात उन्होंने कही थी कि यह संविधान बुरा है या अच्छा, इसमें मत जाइए। यह इस बात पर ज्यादा निर्भर करेगा कि इस संविधान को चलाने वाले लोग अच्छे होंगे या बुरे होंगे। मान्यवर, और लोगों ने भी इसको स्वीकार किया है। एक बात कंट्रोवर्सी की थी कि संविधान में कुछ संशोधन होने चाहिए। मैं डिस्ट्रिक्ट कोर्ट में कुछ समय तक लॉयर रहा हूं। जब कहीं पर कानून में स्पेसिफिक प्रोविज़न नहीं होता तब लॉजिक अप्लाई करते हैं। फिर भी हमारे भारतीय संविधान की मूल प्रस्तावना में संविधान निर्माताओं की नीयत पूर्ण रूप से परिलक्षित होती है और बाकी बची हुई चीज़ हमारे मौलिक अधिकारों और राज्य के नीति निर्देशक सिद्धांतों से स्पष्ट हो जाती है, इसलिए तमाम मंतव्यों और गंतव्यों की प्राप्ति में हमारा भारतीय संविधान पूर्ण सक्षम है इसमें संशोधन की कोई आवश्यकता नहीं है।

मैं केवल एक विषय पर दो मिनट बात करना चाहूंगा लेकिन इससे पहले मैं यह कहना चाहता हूं कि शासक कैसे हों। शासकों की सोच स्पष्ट होनी चाहिए, शासकों की दिशा स्पष्ट होनी चाहिए, शासकों की नीति स्पष्ट होनी चाहिए, शासकों की नीयत स्पष्ट होनी चाहिए, उसमें ईमानदारी होनी चाहिए, शासकों में मानवीय चरित्र होना चाहिए और शासकों में इच्छा शक्ति होनी चाहिए। अगर ये चीज़ें हैं तो संविधान हर चीज़ की गारण्टी करता है और इंप्लीमेंटेशन हर बात का हो सकता है, लेकिन इन चीज़ों की दुर्भाग्यवश कमी रही है और इस बात को लोगों ने स्वीकारा भी है। अब तक बहुत कुछ हो गया होता अगर शासक ऐसे रहे होते। मैं केवल एक विषय पर जिस पर लोगों के विचार भी कम आए हैं, कि हमारा आर्थिक विकास करने में यह भारतीय संविधान सक्षम है या नहीं, इस पर कहना चाहूंगा।

जहां हम चाहते हैं कि देश का आर्थिक विकास हो, वहीं हम इंडीपीज्युअल का आर्थिक विकास भी चाहते हैं। आर्थिक विकास हमारा दो प्रकार से हो सकता है। एक तो हमारे यहां खेती के माध्यम से, खेती को बढ़ावा देकर, और दूसरे इंडस्ट्रीज के माध्यम से। हमारी प्राकृतिक सम्पदा या नेचुरल रिसोर्सेज़ जो है, वह खेती है। हमने शुरू में भी, आज से 100 साल पहले भी कहा था —“उत्तम खेती मध्यम बाण, अधम चाकरी भीख निदाण”।

हमारे देश की 75 प्रतिशत जनता देहातों में रहती है और उनकी आजीविका का साधन खेती है, या खेती से जुड़े उद्योगों से है, हमें खेती पर आधारित उद्योग धंधे लगाने की तरफ ज्यादा ध्यान देना चाहिए — जिन्हें हम काटेज इंडस्ट्रीज़ कहते हैं और स्माल स्केल इंडस्ट्रीज़ कहते हैं।

अध्यक्ष महोदय ने अपने भाषण में हमारा ध्यान पंचवर्षीय योजनाओं की ओर दिलाया, पहली पंचवर्षीय योजना के बारे में कहा—

“Agriculture was brought under irrigation. But, I am sorry to say that thousands and crores of hectares of land is lying waste and virgin and that has not been brought under cultivation.”

आज हमारे देश में जितनी जमीन बेकार पड़ी है जो ऊसर है, बंजर है, कल्लर है, बेकार है, नदी-नालों से घिरी है या पठारी है, यदि हम उस सारी जमीन को खेती योग्य बना दें, समस्त धरती को उपजाऊ बना दें तो उससे हमारे देश का आर्थिक विकास भी होगा और आर्थिक विकास के साथ-साथ व्यक्ति का भी विकास होगा तथा भारी संख्या में लोगों को रोज़गार मिलेगा।

आर्टिकल 48 में साफ लिखा हुआ है कि तकनीकी और वैज्ञानिक आधार पर खेती को आर्गेनाइज़ किया जायेगा। संविधान में इसकी स्पष्ट रूप से व्याख्या है। दूसरे एनिमल हस्बैंड्री के संबंध में संविधान का आर्टिकल 48 बहुत स्पष्ट है, जिसमें एनिमल हस्बैंड्री को बढ़ाने की बात कही गयी है। इसलिये सब कुछ संविधान में पहले से ही साफ दिया हुआ है। इसके अलावा हमारे देश में अनेक प्रकार की नेचुरल सम्पदा है, अनेक मिनरल्स मिलते हैं, इसलिए हमारे यहां किस चीज़ की कमी है, कोई कमी नहीं है। खनिज तो हैं लेकिन उनको सही ढंग से अभी तक एक्सप्लॉयट नहीं किया जा सका है, हम उनका दोहन ठीक प्रकार से नहीं कर पाये हैं। यदि हम खनिजों का दोहन करें तो उनके आधार पर अनेकों इंडस्ट्रीज़ यहां लगायी जा सकती हैं। इससे हमारे देश का आर्थिक विकास हो सकता है।

मैं एक और बात कहकर समाप्त करना चाहूंगा कि जैसा आपने कहा प्लानिंग विभाग के संबंध में, स्पष्ट कोई प्रावधान हमारे संविधान में नहीं है। आप जानते हैं कि कई देश दुनिया में ऐसे हैं जहां संविधान अलिखित है लेकिन वहां सारे मन्तव्य और गन्तव्य पूरे होते हैं। यदि हमारे संविधान में इस बात का स्पष्ट उल्लेख नहीं है तो व्यवहार में तो है हमारे यहां प्लानिंग कमीशन है, हमारे केन्द्र में प्लानिंग मंत्रालय है, हर स्टेट में प्लानिंग मंत्रालय है, हमारे यहां प्लानिंग डिपार्टमेंट है, हर जिले में कलेक्टर के बाद, दूसरी पोज़ीशन एंडी०एम० प्लानिंग या प्लानिंग आफिसर की होती है। इसलिए प्लानिंग डिपार्टमेंट या प्लानिंग कमीशन की व्यवस्था हमारे संविधान में नहीं है तो व्यवहार में तो है, इच्छा शक्ति होनी चाहिये। सब कुछ हो सकता है हमारे यहां जितनी योजनाएं बनती हैं, हमारा अनुभव है

कि उनका सही ढंग से इम्प्लीमेंटेशन नहीं होता। यदि हम आज इस बात का प्रण लें, जैसा अभी हमारे एक साथी कह रहे थे, आज बाबा साहेब डा० अम्बेडकर की जन्म शताब्दी के अवसर पर हमको प्रण लेना चाहिए मैं कहता हूँ, उनके प्रति सबसे बड़ी श्रद्धांजलि यही होगी कि हम जिस किसी विभाग से भी आये हैं, जिस विभाग का भी हम प्रतिनिधित्व करते हैं, उसके तहत आर्थिक विकास और सामाजिक न्याय के लिये, जितना काम हम अपनी कुर्सी और कलम से कर सकते हैं, बगैर किसी दबाव के, हमें उस काम को कर देना चाहिए चाहे हमारे ऊपर किसी भी तरह का प्रेशर क्यों न पड़े।

मान्यवर आखिरी बात मैं स्टेबिलिटी के संबंध में कहना चाहता हूँ। स्टेबिलिटी यहाँ अपने आप के कारण नहीं है। हर पांच साल बाद चुनाव होते हैं कोई मना नहीं करता कि सरकार 5 साल चले या नहीं चले। सरकार चलाने का मोह तो सब को है लेकिन उसे कौन तोड़ता है तोड़ने के लिए कौन जिम्मेदार है? मेरा अनुभव है कि सरकारें अपने आप टूटती हैं। पहले 1972 में चुनाव होने थे, मगर सरकार को तोड़कर 1971 में कराये गये। फिर 1976 में चुनाव होने थे, 1977 में कराये गये। अब सरकारें किसने तोड़ीं—हमने तोड़ीं। इसलिए कोई किसी को नहीं तोड़ता। स्टेबिलिटी के लिए रैस्पॉसिबल हम हैं, संविधान उसके लिए जिम्मेदार नहीं है, हमारा व्यवहार उसके लिए जिम्मेदार है, हमारी नीयत, हमारा ईमान और हमारा चरित्र उसके लिये जिम्मेदार है।

अध्यक्ष जी, मैं एक गांव का आदमी हूँ, ग्रासरूट लेवल वर्कर हूँ। पार्लियामेंट का मुंह पहली बार देख रहा हूँ। मैं एक बहुत पिछड़े वर्ग और पिछड़े इलाके से आया हूँ लेकिन मुझे बाबा साहेब डा० अम्बेडकर को देखने, सुनने और कई साल उनके जीवनकाल में काम करने का मौका मिला है। उन्होंने संविधान में सब कुछ लिख दिया और कह दिया है। मेरी आज आप लोगों से यही प्रार्थना है संविधान संशोधन करने की कम सोचिए, क्योंकि संविधान में अनेकों संशोधन होते रहे हैं मगर उनका क्रियान्वयन नहीं हुआ है जब तक उसका इम्प्लीमेंटेशन सही ढंग से नहीं होगा, कभी हम अपने लक्ष्य की प्राप्ति नहीं कर सकते, हमारा मन्तव्य और गंतव्य सिद्ध नहीं हो सकता। इसलिए संविधान में जो कुछ पहले से विद्यमान है, लिखा हुआ है, यदि हम उचित तरीके से उसे इम्प्लीमेंट करें तो हमें वांछित सफलता प्राप्त हो सकती है। इन शब्दों के साथ मैं अपनी बात समाप्त करता हूँ और आपको धन्यवाद देता हूँ।

Shri Anil Mukherjee, Deputy Speaker, West Bengal Legislative Assembly: Mr. Chairman, hon. Speaker, Shri Om Mehta, Presiding Officers, Judges, Jurists, all the learned people who are present here, I thank you for the opportunity given to me to express my views at the fag end of the Session.

I shall not say what were previously said by the previous speakers. My approach is that the Constitution as an instrument on the economic growth and social justice—the Constitution itself has no defects as everybody has said so. There are provision in the Constitution so far social justice and economic growth is concerned. Chapters contain Fundamental Rights, Directive Principles State Policy and other chapters

are concerned where there is an enough scope for economic growth and social justice for the people of India. There is no dispute about it. But, after the introduction of the Constitution and working of the Constitution for the last forty three years since 1950 what is the result? What is the production of that working of the Constitution in India?

Now, regarding economic growth, we have tried many times. Panditji in his speech in Lahore Congress and Lucknow Congress has said: "Our aim is socialism" and Dr. B.R. Ambedkar is "for the down trodden people", "for the have nots" people. So, the founding fathers of the Constitution have framed the Constitution in such a way that economic growth and social justice can be made for all. But through this working of the Constitution what we have seen the people like Tata, Birla, and Dalmia and other industrialists in 1947, who owned Rs. 5 crores, Rs. 7 crores and Rs. 10 crores etc. But, now after working of the Constitution for forty three years, Birla has the accumulation of Rs. 4500 crores and Tata has the same accumulation. So, their amounts worth Rs. 5 crores to Rs. 4000 crores have been increased. On the other hand, the economic growth has taken place—defence factory has been constructed; now different factories have been constructed; thousands and thousands miles of roads have been constructed economic growth of the country has been under the working of this Constitution that has been made.

We know that Rs. 50000 crores of black money that has been produced by the working of this Constitution. Now, we had taken foreign debts for nearly one lakh twenty five thousand crores. At the same time, our unemployment has increased. Not it is officially 3 crores unemployment and un-officially 10 crores because our country is illiterate country; people are unable to register their names in the Employment Exchanges. So, on the one hand, the unemployment has increased and on the other hand two lakh fifty thousand factories have been closed down in India during the last forty years. Instead of growth retardations have been taking place, but the money is increasing in the pockets of those rich people — 75 industrial families, who made money out of these forty years working of the Constitution and investments.

What is the result of the land reforms? We have seen that except West Bengal and Kerala in other States, 70 per cent of the land is at the disposal of the rich people. 30 per cent of the land has been distributed to the poor.

In West Bengal, 70 per cent lands have been

distributed to the poor; 30 per cent is with the riches due to the cases pending in the High Court. For the down-trodden people, land reforms have not taken place throughout India except in a few States. On the other hand, you will see that out of a total of 85 crores of people, 50 per cent are living below poverty line.

The number of blinds in India has reached the highest in the world.

Economic disparity in the country is continuing but the economic growth and development has not ceased for the 75 families. Their money is increasing but the poor is becoming poorer. In spite of the word 'socialism' introduced by Panditji and by Shrimati Indira Gandhi, in spite of the 20-Point Programme, in spite of the 'Drive out the Poverty from the Country' programme, poors are becoming poorer. They wanted to introduce these programmes for the good of the people but the working of the Constitution is going on in such a way that it is resulting in poor becoming poorer and rich becoming richer.

The country is having foreign loans and black money. So, there are some inherent defects and we shall have to find out that if the framers of the Constitution wanted socialism, if the rulers wanted socialism, if the Prime Minister wanted to drive out the poor from the country, then why the richer is becoming richer, in contradiction of the spirit of the Constitution and in contradiction of the minds of the people?

The dowry system is increasing in spite of the legislation. *Sati dah*, the old concept of 19th century, is coming back. In India, again and again the down-trodden people are tortured, drug addiction is increasing, AIDS is coming, there is no social justice, poor women are getting malnutrition, mass raping is increasing throughout the country. We have seen in a newspaper that in a refugee home in Tripura, mass raping is going on. Everywhere this sort of torture to the women is going on in spite of our good wishes, in spite of the pious wishes in the Directive Principles of the State Policy in our Constitution. They are the pious wishes of the framers of our Constitution.

Fundamental Rights have been provided for equality in the eyes of law. When we go to cast a vote, we know everyone had equality of vote. The Prime Minister also has one vote and the down-trodden people in the street and in the *basti* also have one vote, and may be we are exercising that vote also. But though there is equality and there is one vote for

everybody, in actual practice, we have seen in the elections that the muscle power and money power are playing a bigger role. So, this is the working of our Constitution. Therefore, we shall have to find out the ways and means, by doing a research work, as to where is the loophole in the working of our Constitution. The Constitution does provide Fundamental Rights. It contains the Directive Principles of the State Policy. There are other provisions also in the Constitution to provide social justice. But still there is no economic growth. We are begging from IMF, we are begging from the World Bank, we are begging from foreign countries and we are introducing, in contradiction of Panditji's conception of socialism, the market economy which will help the country to be looted by the foreigners thereafter.

This is my humble submission, Sir.

Shri Buta Singh: Thank you very much Shri Anil Mukherjee, hon. Deputy Speaker, West Bengal Assembly for your valuable views. Now we adjourn for lunch and I request everyone present here to kindly join us and also to come back for the second session which will start at three o'clock.

(ADJOURNED FOR LUNCH)

Shri Simon Peter D'Souza, Deputy Speaker, Goa Legislative Assembly¹:

The Constituent Assembly which was set up by the will of the people and which derived from the people all power and authority worked between 1946 to 1949. For the first time people were free to shape their own destiny, to preserve their aims and objectives and to carve institutions for their realisation. The Constituent Assembly began its deliberations on December 9, 1946. On that historic day, envisioning the constitutional structure of the worlds newest democracy, Sachchidananda Sinha, Provisional Chairman of the Constituent Assembly quoted in his inaugural address the words of Joseph story.

"The structure has been erected by architects of consummate skill and fidelity. Its foundation are solid; its compartments are beautiful as well as useful; its arrangements are full of wisdom and order and its defences are impregnable from without. It has been reared for immortality, if the work of man may justly aspire to such a title." Indeed the new Constitution of India adopted on November 26, 1949 reflects great skillmanship, craftsmanship and workmanship. Once, on a visit to London, Gandhiji was asked what type of a constitution he would give free

¹Written text of the Speech which could not be delivered due to paucity of time.

India, Prompt came the reply, "I shall strive for a constitution, which will release India from patronage, I shall work for an India in which poorest shall feel that it is their country, in whose making they have an effective voice.....This is India of my dreams". The Constitution reflects this Gandhian dream.

The Preamble of the Constitution declares with solemnity that it is 'We the People of India' who have enacted a constitution for ourselves with the objective of full-filling certain goals. And transcending among them is that of social revolution. Though the revolution would fullfill the basic needs of the common man, and it was hoped, that this revolution would bring a fundamental change in the structure of the Indian society. A society with a long glorious cultural tradition, but greatly in need of a powerful infusion of energy and rationalism. It is this theme of social revolution that runs through the various provisions of the Constitution.

Since the first world war, two revolutions were going in the country one was a *National Revolution* and the other *Economic*. With independence, the national revolution would be completed, but the social revolution would go on as Nehru has said it. Freedom was not an end in itself, only a means to an end. "That end being the raising of the people....to higher levels and hence the general advance of humanity."

K. Santhanam a member of the constituent Assembly had spoken of the three revolutions. The *Political Revolution* that would end with independence, the *Social Revolution* meant to get India out of the medievalism based on birth, religion, custom etc. and the third revolution was an *Economic One*—the transition from primitive rural economy to scientific and planned agriculture and industry.

The new constitution tries to free from social bondage, it tries to feed the starving people and to clothe the naked masses and to give every Indian the fullest opportunity to develop himself according to his capacity. It ensures stability without stagnation and growth without the destruction of values. It tries to make India a land of opportunity and not of opportunism. It ensures social justice and reconciles individual good with public good. The care of this commitment to social revolution lies in Part III and IV in the Fundamental Rights and the directive principle of state policy. These are what Granville Austin calls the conscience of the constitution.

The fundamental rights of the constitution are those rights of the citizen on those negative obligations of the state not to encroach on individual

liberty. They lay down that the state is to deny no one equality before the law, that all citizens have the right to freedom of religion, assembly, association and movement etc. Although the fundamental rights, primarily protect the individual and minority groups from arbitrary, pre-judicial state action, three of the articles have been designed to protect the individuals against the action of the other private citizens. Article 17 abolishes untouchability. Article 15(2) abolishes all types of discrimination. Article 23 prohibits forced labour. The fundamental rights try to foster the social revolution by creating an egalitarian society that would free all citizens from coercion or restriction by the state or by the society.

The directive principles of state policy aim at making the Indian masses free in a positive sense from centuries of exploitation, free from object, physical conditions that had principles of state policy set forth humanitarian socialist principles that were and are the aims of the Indian social revolution. They recognise the fact that one of the chief function of the state is to secure the social well being of the citizens and the industrial prosperity of the nation.

The essence of directive principles lies in article 30. The state shall strive to promote the welfare of the people by securing and protecting as effectively as it may be a social order in which Justice, Social, Economic and Political shall inform all the institutions of the national life. To achieve this goal the constitution has various provisions in Part IV. It has commanded the state to see that the citizens have an adequate means of livelihood and that the ownership and control of the material resources of the country subserve the common good, that the workers not only get a living wage but a wage that will enable them, to maintain and improve their mental and physical health. So the directive principles are designed to bring about the social revolution. Nehru considered that India's very survival depended on the achievement of this socio-economic revolution. He warned "if one cannot solve this problem soon, all our paper constitution will become useless and purposeless". Truly, Political freedom is useless, without Economic and Social justice.

So through the directive principles of state policy the constitution directs the investment of human and material resources on an imaginative and planned manner which can contribute to the vitality and progress of the whole nation. Eradication of poverty is a major objective of our country. It can be done by proper use of men and natural resources. So the best cure for economic ills is to fulfil the directive princip-

les of state policy. It is the economic mandate of the constitution.

Now, how far the state has marched in this direction of social revolution? How far it is able to create a just, social order? The Parliament and the State Legislatures have enacted several social legislations to render social justice to the common man, a lot of progress has been made in the fields of agriculture and industry. There has been legislation on minimum wages for the workers, labour laws have been modernised and the conditions of labour have been improved. Land reforms have been passed. Special protection has been given to the social and backward classes of people.

But all said and done a large section of our people is still without adequate means of livelihood. We have not been able to provide a living wage to all our workers. We still have to take sound steps to see that the ownership and control of material resources of the community are so distributed as best to subserve the common good. The operation of our economic system continues to result in the concentration of wealth and means of production to the common detriment. We have still to go a long way to create the social revolution visualised by the directive principles of state policy not have we moulded our nation into a dynamic force. A country is what its people make and not what its constitution prescribes. The Constitution can be worked as well as wrecked by its people. The Constitution of India is a workable document. Indeed we may say so if things go wrong in our country the fault will not be that of the Constitution. What we will have to say is that man was vile. It is not the constitution that has failed, it is 'We The People' who have failed. So the people who guide the destinies of India should remember that the "Service of India means the Service of Millions who suffer, it means the ending of poverty and ignorance and disease and inequality of opportunity." But so long there are Tears and Sufferings the work will not be over. The constitution is an instrument for Economic change and social justice. It is well planned economic growth on the basis of the constitution that can alone ensure social justice.

Here I would quote Friederich Max Muller.

"If I were to look over the whole world to find out the country most richly endowed with all the *Wealth, Power and Beauty* that nature can bestow in some parts a very paradise on earth—I should point to *India*."

So let us pledge to preserve this paradise for "If *India goes down; all will go down; if India thrives, all*

will thrive; and if India lives all will live." So let us not stay away from the path laid down by the constitution. A constitution may perish in a hour by the folly, or corruption, or negligence of its only *Keepers, and People*. So let us not let down the constitution. *Bharat Mata Ki Jai Jai Hind*.

(The Seminar reassembled at 1500 hours after lunch).

Shri Buta Singh: Hon. Speaker, with your permission, we start the post-lunch session of our seminar on the Constitution of India in precept and practice.

We are privileged to have, with us, today the main speaker, Shri Vasant Sathe, former Union Minister who needs no introduction. As a parliamentarian he has left a remarkable impact on the proceedings of our Parliament. He is also the most active politician who is known for his straight-forward views.

I request Shri Vasant Sathe to start the second session of our seminar with his key-note address on "Accountability Vs. Stability" in our country. Shri Vasant Sathe.

Shri Vasant Sathe, Former Union Minister: Mr. Speaker, Shri Buta Singhji, ladies and gentlemen, the first thing that I would like to say is there is no opposition of accountability to stability. When I saw the subject, especially the "Vs.", I was taken a little aback. Well, I do not think that stability is opposed to accountability. On the contrary, I would like to submit—and as I go along I would make my points—that stability in any system is essential prerequisite for accountability. You cannot have accountability unless there is stability. So, stability is complementary to accountability and vice-versa.

Now, when we talk of stability what do we have in mind? Under our Constitution, when the founding fathers took advantage of the Constitutions of the world and with a very eminent Chairman like Dr. Babasaheb Ambedkar at the helm of affairs, when they reviewed the working of various Constitutions of the world, they evolved a system which was virtually a marrying of the best of most of the democratic Constitutions of the world. We know that because of our acquaintance, even during independence struggle, that the British Parliamentary system that was closest to our knowledge. We knew that there was a democratic system, successfully working in United States of America. Then there was a system working even in France. But in spite of all these, because of our close acquaintance with the British system on which, in fact, the 1935 Act was modelled, we had some acquaintance with the working of the parliamentary system. But the difference

was that whereas in United Kingdom the parliamentary system evolved over a period of few hundred years and they had an unwritten Constitution, we thought that taking advantage of their experience we can have a written Constitution embodying more or less the same principles. That is why you will find that ours has become today one of the best written Constitutions of the world. It is true that we have amended it nearly 70 times in 40 years. But the basic principles that have been enshrined in the Constitution are valid even today. I will consider it to be one of the most outstanding features of our Constitution.

What is it that our founding fathers wanted? They wanted two things.

During the independence struggle we desired that this country, this nation called India, should be a united, strong nation in the years to come and should have its rightful place in the world. Because during the freedom struggle, in this whole sub-continent, the entire country and its people were united in a common struggle for freedom. We felt that India should be one nation. This is a very important aspect to remember. Historically, although we talk of our great heritage of 5,000 years, we must accept that what is commonly understood as nation in political science today, we have not been a nation in that sense. This concept of nation-hood, even in Europe, has been a result of industrial revolution and post-industrial revolution period. So, therefore, the concept of nationhood in India was born essentially—in modern political terms—during independence struggle.

Those who are students of political science know it very well that in the ultimate analysis, as Lasky has said, a nation is a people who feel that they are a nation.

After everything is said, it comes around to this. A State, in modern political science terms, is a people organised by law within a definite territory.

For a State, a territorial identity is essential. To be a nation it is not essential although people who call themselves a nation also want a territorial identity and strive for it. But in the ultimate analysis it is the people who feel that they are a nation and want to remain a nation is a nation. This is what the people in India felt during the freedom struggle, of what we justifiably call the 107 years' struggle of the Congress, but let us remember that it goes back to 1857 when all the then Princes and Kingdoms united to raise their flag for the first independence struggle. Therefore, it is throughout this period that this feeling of nationhood has come. For example, these days peo-

ple even question: Why should we be a nation? Okay, fair enough, let us argue that also, no harm. But the fact remains, I think by and large the people of India accept that we want to be a nation in this sub-continent which we call India and remain a nation. If this is accepted, then the first concept of our Constitution was that it was for India, that is, Bharat. And therefore in this Constitution which we gave to ourselves in the Constituent Assembly, it was spelt out that the first requirement is the Preamble—We are a Sovereign State, nation, and if you see the Preamble—I would like to invite your kind attention to this—then you will find that we declared that we would be a democracy. Here I would like to point out to you that the words 'secular' and 'socialist' were added later on in 1976. Originally it was, 'Sovereign, Democratic Republic'. But then we will also remember that whereas in the Preamble we said that "To secure to all its citizens:

Justice, social, economic and political
Liberty of thought, expression, belief, faith and worship
Equality of Status and of Opportunity
And to promote among them all
Fraternity assuring the dignity of the individual and integrity of the nation."

So, the question that we must ask when we talk of stability is: whose stability are we having in mind? The stability of this concept of nation-hood, that is the foremost because if anything is done either to dilute or to disintegrate this nationhood, then the very first premise of our Constitution is lost. This is the first point.

The other point that I would like to raise is, and there are certain things that I am going to say today which, as is my habit, well I do want to raise a point for us to consider.

Sir, it has been my submission for some time that the time has come after nearly 41-42 years of working of our Constitution that this nation should take a fresh look at our Constitution and find out what we must do to maintain, as I said, this basic characteristic of nationhood and strengthen it because there are dangers of disintegration of this nationhood itself and if we are not careful, things go out of hand. Two things are, in my humble opinion, essential. Firstly, we said we are a Republic. But the structure of Republic, the essential features of Republic, are we encouraging that? Although we have not called it 'federal' basically in the definition when we decided Union and States, it is a 'Union of States'. We say ourselves, while talking of States, that India that is.

Bharat. Part I, Article 1, says is a 'Union of States'. So, we know that there are States and there is a Union. The federal concept is inherent both in its Republican character and although we call it 'Union', it is not a unitary State. Therefore, today we must see whether this character is preserved and my submission is that we must do two things. One is to ensure that the nationhood gets strengthened at the national level and at the same time we should take a fresh look on States' reorganisation? I am making a proposition. What is so sacrosanct about 26 States? Why should the number be 26? What is there in it? Today we find that there are States with a population of 10 lakhs, just 10 lakhs. There are States like U.P. with a population of 13 crores. See the divergence.

An hon. Member: It is 14 crores.

Shri Vasant Sathé: 13 or 14 crores, everyday the clock goes on. Therefore you can go on, it can only add, it won't subtract. Bihar, Madhya Pradesh, areawise if you take Octopus-like States where you require nearly 5 days to reach from one end to another, why there are regional imbalances? Our objective is that regional imbalances must be removed. That is what we have been saying. If that is so, why not consider a fresh look at it? Why must you yield to a particular point only when people agitate and actually catch your throat and then you surrender? By that time the goodwill is lost, the grace is lost, tension is created. So much bloodshed takes place. Why? What is our interest? Our interest is balanced growth of the entire country. If this is our interest, why should India not have, say, 50 or 55 or 60 States? America with less than one-third of our population can have 50 States. What is so sacrosanct about us? If India has, suppose, 56 States, what will happen? Will the Heavens fall? There are agitations everywhere that you see. Do you try to suppress them? They will grow. So, this is not the way to solve the problem. If we ourselves—and supposing - tomorrow you appoint in Parliament a small body first to take a fresh look, get the best brains of the country to have a fresh look at your Constitution to give you a report, say, within six months or whatever time you like, to take a fresh look and one of the things should be States' reorganisation and I tell you that reorganisation of States does not require constitutional amendment. All that you have to do is, you can change Article 3 just by a simple law in the boundaries of the States. States can be added or subtracted and no constitutional amendment is required. That is one thing. Actually Greater Punjab was there. The argument is there that if we had not divided Punjab, probably Khalistan agitation would not have been

there. Yet, I am not sure of that. But one thing is there, as has been proved, all the people were saying that Haryana and HP will never be able to survive. Not only that all the three States have survived but have progressed remarkably and have become the grannies of India. Therefore, the argument that smaller States are not viable is not correct. I believe that if MP and UP were four States, Bihar were three States and Maharashtra were three States, then all will grow and there would be a further growth of this country? This is one proposition which I want to put for the sake of stability. Instability comes when internal dissensions are there and when people are feeling unhappy and agitated. So, there are two things.

But while you are thinking in terms of larger number of States to help growth of regional balance and balanced growth of our regions, we must also ensure that stability at the national level of the nationhood should be there. And that is why, I have been suggesting and I repeat it today that the best way to achieve that, in my humble opinion, would be to have the Chief Executive of the country elected directly by the entire electorate. Let it be from Kanyakumari to Kashmir, from Goa to Guwahati. If all our people, nearly 30 crores out of 86 crores are our electorate which is bigger than the entire population of the USA and if their sanction is there behind one executive, then what a tremendous sanction there would be! I say for this also, you will not need tremendous overhauling of the Constitution. Our President is indirectly elected. He is also an elected person. All that you have to do is to bring about some change. Let the constitutional experts come together and have him directly elected. Let the Parliament remain. I am having something closer to the French model in my mind where the President is elected by the people. There, a President who gets more than 50 per cent of the votes of the entire electorate, that is the minimum required is elected. If in the first round, nobody gets more than 50 per cent, then elections are held again and the man who gets more than 50 per cent is elected. That gives stability. Then, the Parliament is also there because the role of Parliament basically is to legislate and to act as a body for keeping vigilance over the executive and not to interfere in the day-to-day affairs of the executive. That is not the role of the Parliament.

Today, in fact, in our country, we have seen now by experience that Parliament has become a weak instrument because no single party has got a clear mandate. When it does not get a clear mandate, if once policies and programmes cannot be

implemented fully, then there will be no improvement in the growth of the country. In spite of the fact that we have somehow managed to get a mere majority, all the good economic programmes that you have will be of no help. For this, the working class, the Opposition, the rural class and the nation have to cooperate and implement the programmes. That is why, you need cooperation. Now, how will you achieve this cooperation? That is why, I believe about the role of the legislator which is another proposal I have. My proposal is to convert our Parliament into Committee systems as you have in the United States and the UK. I do not want to give examples of other countries. Then people will immediately start comparing and so, I will say that we should forget about the US or the UK what should we have? A Parliament of 545 people virtually becomes a talking shop nowadays more and more because of the TV. Everybody wants to enlarge their scope from Question Hour to Zero Hour. Uptil now, we were trying to catch the eyes and ears of the Speaker. Now we want to catch the eye of the entire country. Therefore, we should see what is happening in Parliament. An ordinary Member hardly gets seven or eight or ten minutes to speak on an important subject like Budget. I am not talking about leaders. How much can that Member contribute? Therefore, he thinks of speaking of his constituency. While talking of a big Budget, he talks about a bridge or a nalla or something in his constituency and what the Government is doing about it. It is quite natural for him. See what we reduce the Parliament to! I would submit that the time has come to change this. I will tell you that the system and even the bureaucratic system resists. When a man becomes a Minister, he becomes a bureaucrat. He thinks that he has vested interest in his Ministry and he resists any suggestion of vigilance over his Ministry. Therefore, we have to seriously think, if you want to make the parliamentary system effective. We have to convert it into committee systems. In-depth application is possible in committees. Even if a bill is introduced, let it be studied in committees first. Then for final hearing, it will come before Parliament. Then Parliament, by and large, will be sitting whether for six months or a lesser period and so on. Parliament will be a place where people can express themselves on general issues also affecting the country as a whole. The serious work of the legislative type will be done in the committees itself. This is as far as stability is concerned.

Then comes the question of accountability. Accountable to whom? If we say that the entire

purpose of the Government is to be accountable to the people of India, then that would be the first and foremost thing. If that is so, then we must consider whether the Parliament of 545 Members in Lok Sabha and 240-250 Members of Rajya Sabha, representing 86 crore or 850 million people of India, are really functioning in a manner so that all our energies and thoughts are concentrated on this question whether whatever we are doing is helping these people or not. Remember the talisma given Gandhiji that whenever you are in doubt, you think whether your action is going to be help the poorest man or not. But we do not think that we owe it to the entire people of India or that our actions are really helping them to solve their problems or not. Is there any corelationship between what we do in parliament, the way we waste our energies, squander our energy in politicking and very often in one upmanship and what we are doing for the people? Is it not the time to consider whether we should change the system? I am saying that individuals by and large, are brilliant people, intelligent and patriotic people in Parliament.

My humble submission is that there is something wrong with the system. I know that this controversy always goes on. Whenever you say that something is wrong with the system, everybody immediately jumps up and says that there is nothing wrong with the system, but with the individual. This argument can go on until the individual is corrected. All seers and our great saints like Buddha and others have said that you correct the individual. Then, why do we have the system at all? You only correct the individual, then. But then, the system is also required and that is why, we framed the Constitution. I feel that in this system, we can bring about modifications—in the Government, the Executive, the Legislature and the judiciary. Judiciary is very sensitive and we do not normally talk about judiciary. But, even judiciary now is getting shaken. All is not well there. So, we must see whether these instruments are accountable to the people of India.

Shri Buta Singh: What about the Fourth Estate?

Shri Vasant Sathe: Fourth Estate is of course, most dangerous to talk about. *Nirankushaha Kaviaha*. There is no *ankush* for them. They are the *Kavias*. There is no accountability. They are accountable only to themselves and to their masters. In the larger interest they say that they are accountable to the readers. I do not want to discuss that here today because under the Constitution, we have given them complete freedom and so we do not talk about them. They are not part of the four pillars. But, I will talk

about these three instruments. What ultimately is the objective of a Government in any democracy? The objective of the Government must be to create conditions and opportunities where individual citizens of that society will have scope to develop and achieve excellence in the field of his or her own choice. That should be the main objective of the Government. I do not want to go into that old dictum "for forms of Government—Let fools contest, what governs best is the best," etc. etc. This debate we were having in our schools and colleges. But, it is true that the job of the Government and of any Constitution which creates these instruments is to see whether we have succeeded in creating these conditions in the country and if not, to find where the default been. I would like to submit that we did not make our system result-oriented. This is another question of accountability. You may make the administrative system rules-oriented. But, nobody is bothered about the result. Result is the lack of balanced growth of the people. The trouble that our system has is, that though we took some good principles.

I have been one of those who felt that we deviated from the Nehru's concept. Today it has become fashionable for some to say that Nehru's philosophy has become irrelevant; on the contrary, my humble submission is that if you carefully read Nehru and the criticism made by others, you will find that most of the criticism is by those who have not read Nehru at all and in particular those who have not read the Industrial Policy Resolution which they criticise most. Actually, if we had truly followed Nehru, we would not be economically weak. Today, the whole world is coming to Nehru's path. What has failed in Soviet Union? People always talk glibly about that. In my opinion, what has failed in Soviet Union is State capitalism and not democratic socialism. They never had democratic socialism. When they try to bureaucratise everything—even the small job of a shoe-maker which was supposed to be nationalised and bureaucratised—the failure came because incentive and initiative of an individual citizen was taken away. That is what is realised now. But, Nehru tried to marry both. What did he say? He said that we will have public sector where infrastructure requires to be built and private people will not be interested in investing and building dams like Bhakra Nangal and others. So, public money was being invested in that to build infrastructure without which no other industries can come up. Therefore, who will put that money? That is where the concept of public sector comes in. then, he said that all industries producing consumer goods will be in Private Sector. You may also see the

Industrial Policy Resolution and you mark the words used in para 18 of that Resolution. It very clearly says that these public sector units must run on business lines, must generate surplus for further growth and investment. But, there is one more sentence after this. He says, in some cases, sometimes, the industry may not make profit. Why? It is because it is placed in an area, deliberately where there is no infrastructure available etc., where profit cannot be the motive and some other objective may be there. What did our people do? Our public sector people used only such sentences. Social purposes can be achieved, only when you do not make profit and do not generate surplus! The public sectors objective is to employ maximum number of people and make the unit totally uneconomic. The job of the management is to make profit. But, our job was to ask for best wages and best of everything, with the result we made our public sector units totally inefficient. It is inefficient by any norms judged by any standard. After all, commercial undertaking is a commercial undertaking. There is certain compliment in every industrial unit. If you put ten times more compliment, it does not mean it is ten times more efficient. It means it is ten times more delay. I have given examples. Today, we are talking of Asia Tigers — South Korea, Japan, Japan being the biggest, but small also who have come after us like Taiwan, Hong Kong, Singapore, Malaysia, Thailand and Indonesia. They are all going ahead of us. Why? It is because they have adopted the commercial parameters and norms of competitiveness. How do you survive in the world? In the field of trade or business, your goods have to be competitive in terms of quality, in terms of prices. It is simple. Nobody is going to buy anything from you for the sake of charity. India is a big country, and they are all poor people so let us buy something from India — nobody is going to say like that. Only Soviet Union was doing it for some time and you see what has happened today. Nobody will buy anything. You have to be competitive. Either you survive in competition or you die. Nobody is going to worry about you. What is your share in the world trade? It was two per cent in 1947 and it has come down to 0.4 per cent now. We grown about it. Why? Because we are not competitive.

In a steel plant in Pohang in South Korea where 14,000 workers are employed, they produce 10 million tonnes of steel which is one of the best quality steel, by importing iron-ore, lime-stone and cooking coal. They have no raw material and they just produce one of the best steel at a price of Rs. 4,000/- a tonne and they compete with the world.

We, in India, although we have rich natural resources like iron-ore, lime stone and even cooking coal, still we are required to import high quality steel. That is all. We have five good steel plants at Bhilai, Rourkela, Bokaro, Durgapur and ISCO and TISCO in public sector. But then how much do we produce there? How much steel we have produced for the last 15 or 20 years? You are stuck up at six to seven million tonnes of steel in five steel plants employing nearly two lakh people.

In one steel plant at Pohang in Korea which they started in 1970, they employ 14,000 workers and they produced 10 million tonnes of steel. On the profit made in that steel plant, they started another plant at Kwang Yang producing six million tonnes of steel with 3,000 workers. What are we talking? You tell me with whom shall we compete in the world. Are we not going to look up? What is the job of the Government? Shall we say

“This is public money and this is public sector?” One million tonnes of steel generates employment for two lakh people downstream right in the villages. What should have been your policy? We should produce more steel.

In China, they are producing 80 million tonnes of steel. They started later than us.

We are producing 7 million tonnes in public sector and 4½ million tonnes in private sector which together comes to nearly 11½ million to 12 million tonnes in all. That is all. What are we doing?

कैसे जियोगे, कैसे कम्पीट करोगे, आज हम प्रोडक्शन करते तो लोगों को इम्प्लायमेंट देते। हमने सोचा कि पब्लिक सेक्टर हो गया, ब्यूरोक्रेट्स वहां लग गए, दो साल उनको रखा, दो साल के बाद उनको जाना है, वह सोचता है कि मेरा आगे क्या इन्तजाम होगा। मैं स्विट्ज़रलैंड में रहूँ या अमरीका में रहूँ, इसका क्या इन्तजाम होगा। किसकी ऐकाउंटेबिलिटी है?

So, I have been saying that you must introduce in your system ACA factors, Authority, Continuity and Accountability. This must be applied to your administrative system. Convert Indian Administrative Service to Indian Development Service now.

जो बातें मैं कह रहा हूँ गले से नहीं उतरती हैं। सही बोलना कड़वा लगता है। पोलिटीकल सिस्टम को ऐकाउंटेबल बनाइए, ज्वाइंट सैक्रेटरी के बाद जाव पैन्शनेबल हो गया, इसके आगे सर्विस कौन्ट्रैक्ट सिम्पल। काम करो तो रहो फिर भले ही 60 से ज्यादा उम्र हो, क्या फर्क पड़ता है, कौन ऐज पूछता है, जब तक आप रिजल्ट देते रहें तब तक रहें नहीं तो छुट्टी।

Make your political system accountable. Accountability is judged only by results. Nothing else. That is the only parameter.

यह प्रब्लम देश के सामने है। दुनिया के सामने कम्पीटीटिव बनना है। बहुत कुछ और करना पड़ेगा, बड़े कड़े कदम उठाने पड़ेंगे। अब वक्त आ गया है, पार्टी-बाजी, झगड़ा, एक-दूसरे की टांग खींचना, बहुत हो गया।

What is more important is to give up our jealousies, mutual and internecine quarrels and intra-party and inter-party differences. We do not give up this but we surrender to the multi-nationals, to the World Bank, to the IMF and we go with a begging bowl and day in and day out we are being slapped and humiliated. Russia is being told “Do not give space technology to India.” Where have we come to? This is because we are weak. Beggars cannot be choosers. A great India, a big India, a proud India, is feeling helpless today. My submission is our approach has to be holistic. Economy, political system, economic system, your whole social system, everything has to be looked at as a totality as a whole and unless we as a nation, irrespective of our parties, apply our mind to this task, our days today are very difficult. We may have excellent economic policies, growth-oriented policies but if the political system does not provide stability and backing to implement these economic policies, tomorrow there is a grave danger, mark my words, grave danger, of this country succumbing to the same fate as many of the Latin American Countries. This is a serious danger, if you do not use all this loan for productive purposes and generate surplus so that you can pay back. It is easy to take loan but difficult to repay and if that does not happen, then you become slaves. Your nation becomes slaves. The danger is of economic imperialism, of economic colonialism now and India has to be wary not only for itself because it is a big nation, but if India can stand firmly on its legs, it can inspire other developing countries of the world. That is why, I believe that we must go in for stability with accountability.

Thank you very much.

श्री युधिष्ठिर दास, स्पीकर, उड़ीसा लैजिसलेटिव असेम्बली: चेयरमैन साहब, मेरा एक व्यवस्था का प्रश्न है। यहां जिस विषय पर चर्चा हो रही है, की नोट ऐड्रेस चल रहा है, वह पहले सरकुलेट होना चाहिए। की नोट ऐड्रेस हो गया लेकिन अभी तक सरकुलेट नहीं हुआ। सरकुलेट होने से रिकार्ड रहेगा और आलोचना करने वाले आसानी से आलोचना कर सकेंगे।

श्री बूटा सिंह: यह संभव नहीं है कि इसको पहले सरकुलेट करते क्योंकि हमें यह मालूम नहीं था कि साठे जी लिखित भाषण देंगे या एक्स-टैम्पो बोलेंगे। जो कुछ भी उन्होंने बोला है, एक-एक शब्द रिकार्ड हो रहा है, वीडियो टेप भी हो रहा है। कल जब आप आएंगे तो आपको लिखित में मिल जाएगा, जो भी भाषण हुए हैं वे सरकुलेट कर दिए जाएंगे।

Shri K. Natwar Singh, Former Union Minister: Mr. Speaker, sir, Shri Buta Singh, friends, It is not easy to follow Shri Vasant Sathe. It is difficult to attempt his verbal versatility; the range of the many subjects that he has covered, the passion with which he has spoken and the vision that he has presented before us.

But I will try to inject some intellectual discipline into our discussions so that we can confine ourselves to the subject that we are discussing.

Now, I will first of all begin with two quotations from Dr. Ambedkar: the first is:

“However good a Constitution may be, it is sure to turn out bad because those who are called to work it happen to be a bad lot. However bad a Constitution may be, it may turn out to be good if those who are called to work it happen to be good lot. The working of the Constitution does not depend wholly on the nature of the Constitution. The Constitution can provide only the organs of the State such as the Legislature, the Executive and the Judiciary. The factors on which the working of these organs of the State depend are the people and the political parties...”

The second is:

“The Constitution is after all, some kind of legal body given to the ways of Governments and the life of a people. A Constitution if it is out of touch with the people’s life, aims and aspirations, becomes rather empty, if it falls behind those aims, it drags the people down. It should be something ahead to keep people’s eyes and minds up to a certain high mark.”

Taking these two seminal quotations from Dr. Ambedkar, I think we should, in the seminar, ask ourselves, as an exercise in stock-taking, as to what our record has been in the last 45 years. Now, it is very often said that India produces very remarkable men but it is weak as far as the running and the sustaining of institutions are concerned. This is a historical fact. If a Tagore disappears from the scene, Shantiniketan is not what use to be. If Acharia Vinobha Bhave disappears from the scene, then Sevagram is not the same. One can, therefore, give any number of examples saying that the individual is what matters. Shri Vasant Sathe has referred to it. If we spend our time on the individuals, then you can go on for decades, if not longer periods.

The institutions that we have today are run by human beings. If the human material running those institutions is not of the finest quality then it is

obvious; that something is very seriously wrong. So, since this seminar is being organised under the Chairmanship of the Speaker and has been thought of by the former Home Minister of India, we should begin with our institutions of Parliament and the State Legislatures. We then come down to the District-level and the block level. There is this question before us: Why was it that the debates of the Constituent Assembly were of such a high calibre or of such a high quality? The same was the case with the First, Second and the Third Lok Sabha. Why is it that the level of debates in the Rajya Sabha and in the Lok Sabha as also in the State Assemblies is not as high Today? I will put it in a more forthright manner: When numbers increase, quality suffers.

Take the Library of Parliament. I think sometime Shri Vasant Sathe goes there; I go there; Shri V. N. Gadgil goes there; Shri Lal K. Advani goes there; Shri Shahabuddin goes there; Shri Madhulimaye Maybe, 10 or 12 other people go there. It is the best library in the capital. Nobody goes there. I know 25 years ago you could not get a place in the Parliament Library. I know that. Nobody in the State Legislatures—may be some exceptions can be there—ever take the trouble to go to the library of the Assembly. Your plant needs water. Your brain also needs some input and the intellectual input comes through if you have some acquaintance with books, literature, with what is being written all over the world. Mere verablising is not enough. So, it is obvious that the quality of individual—I count myself among them—who come to Parliament is not as good as it should be. This is the fundamental thing that we should realise. Because standards, whether they are political stands, scientific standards, cultural standards, academic standards, athletic standards, standards in music, architecture, are set by the elites of that particular discipline. By elites, I do not mean people who are born in a palace or in a multimillionaire’s home. My elite means, the elite of achievement, the elite of excellence. Mahatma Gandhi and Pandit Jawaharlal Nehru, Sardar Patel, Maulana Azad were political elites of the country and they set the standards. Today, you have a particular political elite in the State of Bihar which sets the standards. So, we have to ask ourselves basically what standards are we setting. Who do we look up to?

Next comes accountability. Every single elected Member of Parliament, every single Member of the Assembly signs a piece of paper in which he says that he has fought his Lok Sabha election with less than Rs. 1,50,000. A Member of the Assembly signs and says that he has fought it with less than Rs. 50,000.

May I in all humility ask: Whom are we trying to kid? Tell me a single individual who can fight the election with this figure. The accountability is to ourselves. The only examination that should matter to a human being is the one he sets for himself. We all fail in this particular examination. We have all means of explaining the expenditure to satisfy the law. But we spend more than Rs. 1,50,000. The party gives something; others give something by way of collections etc. But the fact that remains. I think the Speaker should have a committee and set a realistic figure, which does not make the Members of Parliament, MLAs a laughing-stock. The people who fund the elections are trying to get something out of you. If you depend on somebody for financing your election, then you are accountable to him. So, you begin your legislative and parliamentary life on a wrong footing. But this thing did not happen 25 years ago. In 1971 Rs. 9 crores were spent by the Congress Party for 552 seats. This is a serious matter. People do not talk about it. I am very glad now it is being raised. Shri Sathe raised it. Earlier, during some other occasion Shri Atal Behari Vajpayee raised it. We should talk about it.

Secondly, the Indian political, democratic, secular experiment is one of the political miracles of the 20th Century. That it works is amazing. All possible devious factors exist in India. Yet it is the great genius of the Indian people that this democratic, secular political experiment on this scale works because on this scale such an experiment has never been tried in the history of human kind. This experiment continues to work. It is the responsibility of the people who are in important positions whether in Government or in the Private Sector or in a private company or persons writing books or lawyers, doctors, teachers to see that it works. Accountability cannot be enforced. Uprightness and honesty are a state of the mind. No law can make you honest if you want to be dishonest. The answer is to come from within. No law can make people honest just as no law can make you dishonest. If we really want to make this country the India of the dreams of Mahatma Gandhi or Pandit Jawaharlal Nehru, then we have to be accountable to ourselves whether we are Parliamentarians, Legislators, authors, musicians, sportsmen, doctors or whatever areas of life we are working in. The answer is to come from within.

I came to the political arena after 31 years in the Foreign Service. When I sat for the examination in 1952, and appeared for the interview at the UPSC, if any person at that stage had tried to influence a Member of the UPSC by way of recommendation, he

would have been debarred for any job in India for life.

When I became a Minister, any number of people approached me कि साहब सिफारिश कर दीजिए, यूपीएससी के चेयरमैन से। I just could not believe it that this is happening. I was in the foreign service and when I said:

आप क्या कर रहे हैं, अपनी औलाद का श्रीगणेश ही गलत कर रहे हैं। कैसे काम चलेगा इस देश का। उन्होने कहा—आप नहीं कहेंगे, तो और किसी के पास चले जायेंगे। I think something is very seriously wrong. No law can stop it. Either you have character, you have integrity or you do not have it. And in this very century, this country has produced people, when the world takes their name, they come to attention. I have no doubt that at the end of the Twentieth century, Mahatma Gandhi not Gorbachev not Lenin will be the Man of the Century. Gandhi is the sole authentic spiritual spokesman of the century. I saw him as a young boy of 18 years old. He lived in our life time. People ask is Jawaharlal Nehru relevant? Why is he relevant? Shri Sathe has put it very succinctly in his remarks is decency relevant, is honesty relevant, is uprightness relevant, is compassion and magnanimity relevant? The answer is yes. And of course, this is what Jawaharlal Nehru stood for and that is why people like me and so many here look up to him.

If there is no accountability, then our institutions cannot function. And an example has to be set by the Ministers, by the MPs, by the MLAs, by Chief Ministers of states, by the Pradhans and by the Sarpanches. Everybody talks of corruption in this country and it is very easy to say so.

When Gandhiji came on the national scene, he did not have with him any atom bomb; he did not have any arms. He had moral force and what did he give us? He gave us *chetana* (awakening). That is why, Indian Freedom Movement became a touch stone for all colonial countries. People look to India for guidance because here was a man who took up the battle against the imperialist world and non-violently made certain that it became morally indefensible for the British empire to stay as an imperial power. And Gandhi's idea of peaceful, non-violent political action is the only original political idea to come out of Africa, Asia and Latin America in the last 350 years. No other original idea has come out.

It came out of this country, in this century. When we have this kind of examples before us, it is a crying shame that our standards should be as low as they are in all walks of life. As Vasant bhai said, if you

are not competitive, you perish. You will be competitive, if there is excellence in all walks of life and the number one excellence is your character and your integrity. Why do you think that people today remember B. R. Ambedkar? And I want to suggest to Shri Buta Singh, to please ask somebody, some distinguished scholar to write a biography of B. R. Ambedkar because undoubtedly he is one of the outstanding intellectual products of this country in this century—as far as brain power goes, legal acumen goes and personal integrity goes. He is a very great man and a very great son of India. One of the things about him was he is not an humbug. There was nothing bogus about him. He lived what he preached. He was not in favour of mumbo-jumbo that is attached to him. Please just read his writings. They are available in the Parliament Library. He wrote voraciously. Jawaharlal Nehru invited Babasaheb Ambedkar—(a) to be the Law Minister of India and (b) the Chairman of the Drafting Committee. B. R. Ambedkar was never a member of the Congress party. But Jawaharlal Nehru and Gandhiji realised what an outstanding legal brain B. R. Ambedkar was. And that he should preside over the Law Ministry of India, although, till September 1946, he was a Member of the Viceroy's Executive Council. These are historical facts. Gandhiji's and Panditji's view was to invite him and Sardar Patel said yes. When we have had people of this calibre then I think it is our responsibility and moral duty to see that we do not lower our standards. One other point which I think is intimately connected with stability in this country. Why 26 States? I think time has come and people like ourselves and Speaker, Shri Buta Singh, who is a very respected senior Member of Parliament, should take up this. How long are we going to deny Jharkhand people a place in the sun? When Goa can be a State and Pondichery can be a Lt. Governor State and the States of Eastern India can be, why not Jharkhand? We have State of Madhya Pradesh which is larger than a country called France. We have State of Uttar Pradesh where 13½ crores people live which makes it, in population terms, the Eighth largest country in the world. First is China, then India, former Soviet Union, United States of America, Indonesia, Brazil, Japan and the State of Uttar Pradesh, in terms of population.

Howsoever efficient your Government may be and our Governments are not efficient because where numbers increase, excellence suffers. It is a dilemma all administrators face. If in a school there are 200 students and one teacher and where there are 20 students, the difference is obvious. So somebody has

to sit down and think. A discussion on a division of Uttar Pradesh or Bihar is today politically taboo and a discussion on a family planning is taboo in any political party, why? If we have to ensure stability in this country then it is absolutely imperative that we must apply our minds and apply them to the basic issues, that is can India remain as it is in today's world.

Two great revolutions took place in the twentieth century; one revolution is the revolution in human consciousness to which Gandhiji contributed the most and the other revolution is of Science and Technology. These revolutions are making it possible for subnationalism to grow all over the world, whether it is Soviet Union, India, China or any other country. Sub-nationalism will grow and the answer is not suppression. The answer is accommodation; the answer is cooperation. The answer is not conflict but to get along with them. So, a time has come for the Parliament to very seriously discuss as to how do we deal with these problems because if we do not deal with them we will not have internal stability and if we do not have internal stability accountability will be meaningless.

Thank you, Sir.

Shri Buta Singh: I request all the participants to join us for a cup of tea. I hope those hon. Members who have given their names will definitely make it a point to come tomorrow also. I request all the distinguished participants and the Presiding Officers to make it convenient to come tomorrow also.

Tea-Break

श्री हरि शंकर भावड़ा, अध्यक्ष, विधान सभा, राजस्थान: माननीय बूटा सिंह जी, उपस्थित सभी सेमिनार में भाग लेने वाले महानुभाव, जवाबदेही बनाम स्थिरता, इस विषय के संबंध में जो जानकारी संसद से मिली है उसको देखते हुए माननीय साठे साहब ने इसको एक नया आयाम दिया है। मेरी इच्छा तो होती है कि उन्होंने जिन-जिन विषयों पर कुछ कहा है उसमें राष्ट्रवाद से लेकर राष्ट्र की परिभाषा से रिपब्लिक की परिभाषा, रीऔरगनाईजेशन आफ दी स्टेट्स और प्रैजेन्ट इकोनॉमिक पालिसी तक, विषय पर बोल गए हैं। मैं समझता हूँ इसका स्कोप इतना बड़ा नहीं है। जवाबदेही और स्थिरता, संविधान के अन्तर्गत सरकार की स्थिरता और जवाबदेही से ही इस विषय का संबंध है। इसलिए मैं उसके बारे में संक्षेप में कुछ कहूंगा।

हमारे संविधान में कहीं पर भी राजनैतिक पार्टियों का उल्लेख नहीं है। राजनैतिक पार्टियों का नाम कहीं पर भी उल्लिखित नहीं किया गया है। ऐसा माना गया है कि जितने भी प्रतिनिधि चुनकर आए हैं वे व्यक्तिगत प्रतिनिधि के रूप में स्वीकार किए गए हैं। जो साठे साहब कह रहे थे या उसके बाद नटवर सिंह जी ने कहा, मैं समझता हूँ विधान के निर्माताओं ने उसे पहले ही समझ लिया और इसलिए उसमें किसी प्रकार का भेदभाव नहीं हो, किसी पार्टी का, किसी ग्रुप का कोई उल्लेख नहीं किया है।

इसका मतलब स्पष्ट यह है कि जनप्रतिनिधि जो विधायिका में चुनकर आता है, वह सीधा-सीधा अपने मतदाताओं के प्रति उत्तरदायी है, उसकी जवाबदेही अपने मतदाताओं के प्रति है। साठे साहब ने कहा, जवाबदेही और स्थिरता में कोई विरोधाभास नहीं है, एक-दूसरे के पूरक हैं, लेकिन चूंकि अब उसमें एक विरोधाभास पैदा हो गया है और वह इस प्रकार से पैदा हो गया है कि चुने हुए जनप्रतिनिधि अपने मतदाताओं के प्रति उत्तरदायी रहते हुए अपने व्यक्तिगत हितों को ध्यान में रखकर जब दलबदल करते हैं तो सरकार में अस्थिरता आती है और इस अस्थिरता के कारण कोई भी सरकार अपना काम पूरा नहीं कर सकती और जनता के प्रति या मतदाता के प्रति उसकी जो जवाबदेही है, उनकी आकांक्षाओं को भी पूरा नहीं कर सकती। इसलिए यह सवाल उठा है और यह अभी जो दसवीं सूची में दलबदल संबंधी कानून आया है, उस कानून को लेकर यह सवाल उठा है कि दलबदल का कानून जिस आधार पर आया है वह सरकार की स्थिरता रखने के लिए। उसमें भी यह सवाल खड़ा होता है कि सरकार की स्थिरता महत्वपूर्ण है या चुने हुए प्रतिनिधि की जवाबदेही अपने मतदाताओं के प्रति महत्वपूर्ण है। यह सवाल क्यों उठा। यह इसलिए उठा कि हमने राजनैतिक पार्टियां स्वीकार कर लीं और संविधान में न होते हुए भी हमने एक अलग से ढांचा परम्परागत स्वीकार किया। जो राजनैतिक पार्टी बहुमत में होगी वह राज करेगी, उसका नेता प्रधानमंत्री या मुख्यमंत्री बनेगा। लेकिन दुर्भाग्य से राजनैतिक पार्टी को, संविधान की जो मूल भावना है, उनको ध्यान में रखकर जो एक राजनैतिक ढांचा खड़ा करना चाहिए था उसके विपरीत खड़ा हो गया। हम चाहते तो यह थे कि हिन्दुस्तान में राजनैतिक पार्टियां अपनी नीतियों, कार्यक्रमों के आधार पर चुनाव लड़ें और आम जनता को भी शिक्षित करें कि हमारे ये कार्यक्रम हैं, नीतियां हैं और इस प्रकार से हम देश का विकास करना चाहते हैं। यह होने की बजाए उल्टा हो गया। राजनैतिक पार्टियों का चुनाव का आधार जातिगत हो गया, क्षेत्रीयवाद हो गया, भाषावाद हो गया, वर्गवाद हो गया और उसमें से कार्यक्रम और नीतियां हट गईं। उसके कारण यह दलबदल की प्रक्रिया ज्यादा शुरू हुई।

अब सवाल आया है कि यदि हम दलबदल को इसलिए बन्द करना चाहते हैं कि सरकार स्थिर बनी रहे, जो पार्टी जनता के समक्ष जब चुनाव में जाती है और अपना घोषणा पत्र जारी करती है, उसमें जो अपने कार्यक्रम लिखती है, अपनी नीतियां लिखती है, यदि वह इसके विपरीत आचरण करना शुरू कर दे तो क्या उसके सदस्यों को यह अधिकार नहीं है कि वे इस सवाल को खड़ा करें कि चूंकि मुझे मतदाताओं ने इन कार्यक्रमों के आधार पर, इन घोषणाओं के आधार पर चुना है इसलिए मैं इस पार्टी में रहना पसन्द नहीं करूंगा। वह फिर भी दलबदल में आ जाएगा। दुर्भाग्य से दलबदल कानून में भी इस बात का ध्यान रखा नहीं गया बल्कि उसमें एक छूट दे दी गई केवल संख्या की, एक मैजिक नम्बर दे दिया कि एक-तिहाई मैम्बर हो गए तो फिर भले ही करंट प्रैक्टिस के आधार पर, अपने व्यक्तिगत स्वार्थ के आधार पर या किसी भी आधार पर उनको दलबदल करने का अधिकार प्राप्त हो गया और इससे यह सवाल हमारे सामने स्थिरता और जवाबदेही का खड़ा हुआ है।

एक सवाल और है जो हम सबके लिए चिन्तनीय है, वह थोड़ा हटकर है। विधान में जो जनप्रतिनिधि हैं उनके ऊपर एक विशेष दायित्व है। आम

जनता कभी नहीं बोलती, जनता की वायस नहीं होती, जनता की वायस जनप्रतिनिधि होते हैं। जनता की इच्छा और आकांक्षा को मूर्त रूप देने के लिए जनप्रतिनिधि के कंधों पर यह दायित्व डाला जाता है। इसलिए जनप्रतिनिधि जो कुछ करते हैं उसमें अपेक्षा यह की जाती है कि जनभावना को देखते हुए जनता जिस आधार पर उनको चुनती है, उनको ध्यान में रखते हुए वे अपना काम करेंगे।

आज जो हालात हैं, उसमें हमारे यहां पर प्रजातंत्र भी सरवाइव करेगा या नहीं, यह सवाल खड़ा हो गया है क्योंकि आज जनप्रतिनिधि को अपने अधिकारों का उपयोग करने का अधिकार भी नहीं रहा। क्या हिन्दुस्तान में किसी भी विधान सभा में और कभी-कभी केन्द्र में भी, जनप्रतिनिधि अपना नेता चुन सकते हैं? हम सब इस बात को जानते हैं कि आज कोई भी पार्टी इस देश में हो, उनमें नेता का चुनाव नहीं होता, कुछ लोग जो पार्टियों पर काबीज़ हैं, वे एक नेता तय कर देते हैं और बाकी जनप्रतिनिधियों को इच्छा और अनिच्छा होते हुए भी उनको चुनना पड़ता है। यह इस विषय की मूल भावना के खिलाफ हो रहा है। इसका एक परिणाम और हो रहा है, सारे देश में नूतन सामन्तवाद पैदा हो रहा है। कुछ हजार कुटुम्ब हैं जिनमें से ही टिकट दिया जाता है उस आदमी को। वह मर गया तो उसकी बहू को, बेटे को। कुछ हजार कुटुम्ब से बाहर प्रजातंत्र निकल नहीं पा रहा है। यह हमारे सामने सबसे बड़ी संकट की स्थिति पैदा हो गई है। इसलिए इस प्रजातंत्र में जनता के प्रति जवाबदेही, जवाबदेही भी दो तरह की है—एक तो सरकार की जवाबदेही विधायिका के प्रति। लेकिन प्रजातंत्र के तीन स्तंभ हैं—कार्यपालिका, विधायिका और न्यायपालिका। इन तीनों के चैक्स और बैलेन्सेज़ की व्यवस्था संविधान में की गई है। ये तीनों एक दूसरे को चेक और बैलेन्स करते हैं। तीनों में आपसी सहयोग, आपसी सद्भाव के साथ काम करने की व्यवस्था है। कार्यपालिका को विधायिका चेक करती है, विधायिका जो कानून बनाती है, उसका रिसॉल्यूशन न्यायपालिका करती है। न्यायपालिका के कानून के अनुसार वह विधायिका के बनाए गए कानून को उसकी मंशा के खिलाफ रद्द कर दे तो दूसरा कानून बना सकती है और न्यायपालिका कार्यपालिका को भी चेक करती है। यह चैक्स और बैलेन्सेज़ लगे हुए हैं, लेकिन अभी जो हालात देश में पैदा हुए हैं, उसमें इन तीनों में भी आपसी सौहार्द खत्म हो गया, एक दूसरे के प्रति सम्मान खत्म हो गया, कोऑर्डिनेशन खत्म हो गया और अहंकार हो रहा है, इसलिए टकराव की स्थिति पैदा हो रही है। आज विधायिका और न्यायपालिका में टकराव की स्थिति पैदा हो रही है। विधायिका को स्वतंत्र रूप से काम करने के लिए, कार्यपालिका की मेनारिटी चूंकि विधायिका में है, इसलिए वह उस पर अंकुश लगाना चाहती है, अपनी मंशा से विधान सभा को चलाना चाहती है, यह स्थिति देश में पैदा हो रही है। लेकिन इन तीनों की जवाबदेही जनता के प्रति है। अंततोगत्वा मैं इसके साथ पूर्णतया सहमत हूँ कि हमारी अंतिम जवाबदेही जनता के प्रति है। संविधान में जो संस्थाएं दी गई हैं, उन संस्थाओं के लिए व्यवस्था है लेकिन सभी संस्थाएं, यहां तक कि स्वयं संविधान भी जन आकांक्षाओं को पूरा करने के लिए बनाया गया है और इसलिए उसमें निर्देशक तत्व भी दिए गए हैं। अब यदि हम ज्यादा स्टेबिलिटी की बात करेंगे तो “ओवर स्टेबिलिटी केन रिज़ल्ट इन डिक्टेटरशिप” और यदि हम ज्यादा जवाबदेही की बात करेंगे तो “ओवर अकाउंटेबिलिटी में अटर्न इंटर एनार्किज़्म”। इसलिए दोनों में संतुलन बनाना पड़ेगा। स्टेबिलिटी के नाम पर

हम किसी सरकार को डिक्टेटर बनने दें, चाहे एक आदमी को या कुछ आदमियों को, तो उनको डिक्टेटर बनने की इजाज़त नहीं दी जा सकती। इसी प्रकार से अकाउंटेबिलिटी के नाम पर आज जो विधान सभाओं या संसद में दृश्य उपस्थित हो रहे हैं, उन दृश्यों को पैदा करने की इजाज़त नहीं दी जा सकती। सरकार स्टेबल रहेगी तो निश्चित रूप से अपने कार्यक्रम पूरे करेगी और सरकार को या कार्यपालिका को विधायिका के प्रति उत्तरदायी रहना होगा और अंततोगत्वा विधायिका को भी यह सोचना पड़ेगा कि हम भी जनता के प्रति उत्तरदायी हैं इसलिए संतुलन बनाकर, ताकि कार्यपालिका अधिक समय तक स्थिर होकर काम कर सके और यह जो चुनाव की पद्धति है, उसमें जो जातिगत, वर्गगत और क्षेत्रवाद-भाषावाद को हटाकर धीरे-धीरे यदि हम चाहते हैं कि देश में संविधान की मूल भावना के अनुसार आचरण हो तो हमें इन चुनावों का आधार भी पार्टी के घोषणापत्र, उनकी नीतियों, उनके कार्यक्रमों को बनाना पड़ेगा। हिन्दुस्तान में जो मल्टी पार्टी सिस्टम है, यह भी सरकार में अस्थिरता पैदा करता है। इसलिए इस मल्टी पार्टी सिस्टम को भी कम करने के लिए हमें प्रयास करना पड़ेगा कि हिन्दुस्तान में भी इंग्लैण्ड की तरह या अमेरिका की तरह दो पार्टी सिस्टम हो ताकि उसमें दोनों पार्टियां अपने कार्यक्रमों के आधार पर, अपनी नीतियों के आधार पर चुनाव लड़ें और जिन नीतियों और कार्यक्रमों के आधार वह मत लेकर आती है, उनके प्रति उनके जवाबदेही बनी रहे और फिर उस जवाबदेही को ध्यान में रखकर वह विधायिका के प्रति भी उत्तरदायी रहे और न्यायपालिका के प्रति भी उत्तरदायी रहे। मैं समझता हूँ इस विषय में स्टेबिलिटी का और अकाउंटेबिलिटी का संबंध यहां तक है और इन दोनों को संतुलित रूप से विधान की मूल भावनाओं को लागू करने के लिए विधान के अलावा जो हमने राजनैतिक पार्टियों का ढांचा खड़ा किया है, उसमें सुधार करने की जरूरत है और इसलिए चुनाव कानूनों में हमको परिवर्तन करना चाहिए जिससे प्रापर रिप्रजेंटेशन हो सके। उसमें हम जर्मनी के लिस्ट सिस्टम को स्वीकार कर सकते हैं। अन्यथा हमारी चुनाव प्रणाली ऐसी है कि 45% वोट लेकर 75 सीटें मिलती हैं और 30% वोट लेकर भी 25 सीटें नहीं मिलती हैं। इस तरह से जो प्रापर रिप्रजेंटेशन नहीं होता है इसके कारण दुविधाएं पैदा होती हैं। इसलिए जो पोलिटिकल स्ट्रक्चर हमने विधान को लागू करने के लिए बनाया है जिसका उल्लेख संविधान में नहीं है, उसके ठीक करने से स्टेबिलिटी और अकाउंटेबिलिटी में हम संतुलन रख सकते हैं और इन पर हमको विचार करके कदम उठाने चाहिए। आपने मुझे समय दिया, इसके लिए बहुत बहुत धन्यवाद।

श्री बूटा सिंह: बहुत-बहुत धन्यवाद श्री हरिशंकर साहब। आपने जो दिशा-निर्देशन दिया, मैं भी महसूस कर रहा था कि यह जो अकाउंटेबिलिटी वसेज़ स्टेबिलिटी की बात जिस ढंग से साठे साहब ने उसका बहुत ही विशाल दायरा किया, मैं ऐसा मानता हूँ कि जब हमने यह विषय चुना था तो उस वक्त हमारा मंतव्य था—“अकाउंटेबिलिटी आफ द एक्ज़ीक्यूटिव, स्टेबिलिटी आफ द पोलिटिकल पार्टीज़ इन पावर।” आपने उसको सही दिशा देकर बहुत ही उपकार किया है।

अब हमारे आदरणीय अध्यक्ष, गोवा विधान सभा को हम आमंत्रित कर रहे हैं। उसके बाद हमारे भूतपूर्व सुप्रीमकोर्ट के जज श्री एच० आर० खन्ना अपने विचार व्यक्त करेंगे।

Shri Shaikh Hassan Haroon, Speaker, Goa Legislative Assembly: Hon. Shri Buta Singhji,

Mr. Om Mehta, distinguished Guests, hon. Speakers, Journalists and Friends. The founding fathers of our Constitution and the architect of the Constitution Shri Baba Saheb Ambedkarji opted for the parliamentary form of government for the country rather than the Presidential form. But there is always a debate whether Presidential system is more stable and accountable to legislature than the parliamentary form of government. There are advantages and disadvantages in the Presidential system *vis-a-vis* the parliamentary system. Under article 75 of the Constitution, the Council of Ministers are collectively responsible to the House of the People. In the present form, it enables the President to have a Cabinet of outstanding competence and integrity. Since the choice is not restricted to parliament and since the Cabinet Ministers are not elected, they are not motivated to adopt cheap populist measures. The Presidential system permits the Cabinet Ministers to be absorbed in the job of governing the country instead of wasting their time in endless politicking. We have seen for quite some time how the Governments have fallen due to the greed of power in the parliamentary system. It would stop defections and desertions on the part of legislators but who are in most cases motivated purely on this for power and hunger for office. We see that till they do not split on any major political issues, this type of government continues. The Constitution expects them to be collectively responsible and accountable for their actions to the legislature. Irrespective of their differences, the parties in power try to maintain stable equilibrium, but if they are not cohesive, then they lose the stability and fall apart.

All weaker governments having no sizeable majority suffer from indecisiveness and face crisis in the Parliament and in the Assembly on various issues, and we have seen many a time how this led to fall of governments. Therefore, in this changing world, we cannot afford to have a hung parliament or a hung Assembly.

As the country is facing grave danger, both within the country and outside, the time has come to examine this entire issue in threadbare. It is because the stability of the government and its accountability are very paramount.

It has, therefore, to be examined whether the Constitution could be amended to fit in our ethos, our system etc. I do not mean to say that presidential form of government should be adopted. But something should be done, such as amending the Constitution, if necessary, because of the changing times.

I would like to mention here that modalities have to be worked out to elect the Prime Minister or the Chief Minister and also a modality should be introduced for bringing out a no confidence against the Prime Minister or the Chief Minister with special majority. It is only then that the accountability and the stability of the government, as well as of the country will continue.

With these few words, I conclude my speech. I thank you for giving me this opportunity. Thank you.

Shri Buta Singh: Thank you Haroon Saheb. I now invite Shri D. Sripada Rao, Speaker of Andhra Pradesh Assembly to give his views.

Shri D. Sripada Rao: *Speaker, Andhra Pradesh Legislative Assembly:* Shri Buta Singhji, Shri Om Mehtaji, fellow Presiding Officers, Members of Parliament, hon. Ministers, journalists, officers and other friends,

I have taken note to complete within 3-4 minutes. I, therefore, wish to be very brief.

During the last one decade several political scientists as well as politicians both at State and Central levels have been thinking aloud on the twin objectives/accountability of the system as well as stability of the system.

India has opted for parliamentary system of Government, in view of long historical traditions. The British practice of Cabinet Government has provided responsibility and responsiveness of Government to the people indirectly through elected Legislatures/Parliament. As we had experimented this pattern of Government mechanism for over three decades prior to independence and four decades after independence, the system has worked well. Most well-versed feel that substantial majority in political party, when forms the government, would provide stable government. But sometimes, it is not true always.

The successive governments constituted ever since 1952 at national and state levels have rendered accountability to the elected law-making bodies. But in the process we have witnessed a kind of instability of these Governments at the national level from 1989 to 1991 and amount several States of India during the interregnum of 1967 to 1971 and 1978 to 1980. It is not out of place to mention that in a parliamentary model, a party securing majority of seats invariably provides for political stability. In India such stability was witnessed at the Centre from 1952 to 1977. It is a fact that the Congress party had substantial majority in Parliament and Governments formed under it functioned in a stable manner with an exception to mid-term elections of 1971. The Janata Party govern-

ment constituted in 1977, the substantial majority of members elected on its panel could not provide a stable government. In view of internal fights, schisms and mutual contradictions that government fell. Thus, the government led by Janata party had fallen by 1979 and withered totally by 1980. They were having majority. But they fell out of power. They could not provide a stable government.

This episode goes to prove that a party, despite getting a majority may not maintain stability. Another peculiar situation was that of the government led by Shri V.P. Singh which was quite unstable, for the National Front neither commanded the majority nor it could solidly secure political support from BJP and the right and left parties on the other. Therefore, the government faced a defeat on the floor of the House, in view of withdrawal of support of BJP and internal contradictions within its own ranks.

The present Congress government is another unique example. In the election to Parliament during 1991 the present ruling party came out as single largest party and formed the Government despite being short of few seats to majority strength. For the last eleven months, it has tackled the delicate politico, socio and economic situations, quite successfully and making efforts to take country out of hood.

Political commentators have suggested that presidential model, similar to that of U.S. or West Germany would augur well in providing stability because the Government functions until its full term without being responsible to Parliament. India had opted for parliamentary model but presented a stable government with a few exceptions until recent times. The Presidential model, at times, might pave way for dictatorship; such instances are notable in the countries of Asia and Africa.

In a debate of this nature it is not possible to take a clear side in favour of either presidential or parliamentary model. The parliamentary system, having successfully operated in India for the last four decades, fits very well with the system. There are a few limitations like defections, the existence of numerous political parties, divide of ideology with regional/sub-regional, communal bias and thrust which seem to hinder the successful operation of the parliamentary system in recent times. Stability of the government without being accountable to people through elected bodies is quite futile and systematic accountability without being stable in accomplishment of desired objectives is also quite irrelevant. It is, therefore, a delicate balance to be maintained so as to achieve the laudable and cherished goals which our constitution makers have contemplated.

I assure you that we can achieve the cherished goal of what our constitution makers have contemplated to have stable government and accountability in the people if we follow the following.

The remedy is to educate the people for national integration. This can be achieved only if we have some principles. Politics with principles, education with character, wealth with charity, commerce with morality, science with service to humanity will only keep the national integration.

There is a proverb in Telugu:

उसी तरह हिन्दी में भी एक कहावत है—पूरे ब्राह्मण लोग हैं फिर मुर्गी कहां गायब हो गयी। मेरी समझ में नहीं आता जब हरेक जगह लोग यही बोलते हैं गवर्नमेंट स्टेबल रहनी चाहिये, स्टेबिलिटी रहनी चाहिये, पूरे लोग यही बोल रहे हैं, फिर मुर्गी कहां गायब हो रही है। यदि गायब हुई है तो किसी न किसी ने खायी होगी, किसी ने तो उसे गायब किया होगा, उसका पता लगाना चाहिये। किसी न किसी ने तो गलती करे होगी। उसे ढूँढना चाहिये। वेद-ज्ञाता, पंडित सभी तो यहां हैं। सब कहते हैं नेशनल इंटीग्रेशन होना चाहिये, स्टेबिलिटी रहनी चाहिये, पोलिटिकल स्टेबिलिटी और एक्ज़न्टेबिलिटी की बात 45-46 साल पहले से कहते आये हैं फिर मुर्गी कहां गायब हो गयी। I am sure if we follow the principles enunciated by our constitution makers we can achieve the stability and accountability. The national integration, which is the need of the hour, can well be achieved.

With these few words, I conclude.

I thank you for giving me the opportunity.

Shri Buta Singh: Thank you Shri Sripada Rao for such a nice speech. I now request Justice H.R. Khanna to give his valuable views on the Subject. Justice Khanna.

Justice H.R. Khanna: Mr. Chairman and friends, I deem it a great privilege to have been afforded this opportunity for speaking at this session which deals with stability and accountability. Both these constitute imperatives for a nation. Stability is a national need while accountability is a democratic requirement. We have to synthesise the two at a time. When the Constitution was framed, there was a great debate on the point as to whether we should go in for presidential system or the parliamentary system. Then Dr. Ambedkar in one of his most lucid utterances said that we have opted for a parliamentary system. It would undoubtedly give us less stability, but at the same time it would give us greater accountability. During the last few years we have seen a number of infirmities creeping into the system. In this respect I would mention that it ultimately depends upon the people and the way they have actually worked the constitution that the success of

the Constitution would actually depend. Germany after the First World War had Weimar Constitution. It was hailed all over the world as one of the most liberal constitutions. Yet during the period of 14 years from 1918 to 1932, Germany had 21 coalitions. There were a series of Governments one after the other and it led to instability. And this gave rise to Hitler. Hitler gave Germany the greatest stability, but it also marked the demise of all democratic values, the right to civil liberties, freedom of expression, independence of the courts and even the functioning of the Legislature was stopped and the power was assumed by the further to make laws by himself.

The Presidential system undoubtedly would give us greater stability, but I would point out to you that whatever may be the success of the Presidential system in the United States or in France, the experience in most of the Asian and African countries has been that no President has gone out of office as a result of elections. Only natural death or coup has resulted in the displacement of the President. As against that, it is only through the parliamentary system that in 1977 Mrs. Gandhi as a result of elections was thrown out of power because of some of the things that happened during the Emergency, and it was again in a parliamentary system that Mrs. Gandhi was again returned to power as a result of elections. One looks in vain for such peaceful transfer of power in countries which have had Presidential system. I may also mention that the postulate of every Constitution is that those who are actually called upon to work the Constitution must share the same faith and allegiance to values that actually inspired the founding fathers in incorporating those provisions. Once that faith, that allegiance to values gets eroded, then the working of the Constitution is bound to run into great difficulties and it would face rough weather.

Under the parliamentary system which gives scope for greater accountability, the Ministers are accountable to the legislature. Unfortunately, when we look at the proceedings of the Legislatures we find that most of their time is taken by unnecessary issues and by mutual mud-slinging, while issues of great national importance are thrown into the background. The Members are more concerned with scoring debating points rather than dealing with major national issues. We must remember in this context the warning of Burke: "of what avails it to win an argument, if in the process we lose an empire". Today the country is passing through the gravest crisis. It is time that these in the Legislatures should think more of the problems

that actually beself the country. For working the Constitution, we need a code of constitutional morality, you may call it constitutional discipline, you may call it an awareness of your responsibilities under the Constitution, but whatever it be, unless we actually show that sense of discipline, that sense of responsibility, that abiding by the rules of Constitutional values the Constitution would not give us the results which were actually expected. Today we need to synthesise the two, stability, that is the national requirement when the country is passing through grave dangers, at the same time we cannot afford to lose sight of accountability and to let deviations to get ignored by the people and the Members of the Legislature. It has been said that we should go in for major amendments of the Constitution. Perhaps some of us are enchanted by the Presidential system. I will request you just to keep this thing in mind that if you undertake any of these exercises, you will be opening a Pandora's Box. Do you have the men of the calibre, of the talent, which was reflected in the Members of the Constituent Assembly? Look at the level of debate in the Legislatures and look at the level of the debate that was there when the Constitution was framed and then those giants were there on the national scene. Would you like the Constitution framed by those people, by those great stalwarts to be tampered with by people with narrow vision and puny-minds? I would request you to ponder over this thing. We need today both accountability and stability. Thank you very much.

Shri Buta Singh: Thank you very much, Mr. Khanna, Now, I request Mr. Sharad Dighe to address the seminar.

Shri Sharad Dighe: Mr. Chairman, thank you for giving me this opportunity. As far as today's debate is concerned, I first submit that our founding fathers had taken this decision of adopting parliamentary democracy very consciously and after great deliberations. The background notes were circulated to the members by the legal advisor, Mr. Rao and opinions were asked from the provincial as well as central legislatures and overwhelmingly, all the members decided that parliamentary democracy should be adopted in India. The Constitution Committee, the Federal Committee as well as the Provincial Committee under the chairmanship of Nehru and Sardar Patel also decided that the parliamentary democracy should be there. This was done not merely because of the nearness of the British Constitution but this decision was taken consciously in the light of the advantages and the disadvantages of the stability versus responsibility or accountability.

I will quote the speech of Dr. Ambedkar, while introducing the draft of the Constitution. He said:

“Democratic executive must satisfy two conditions. It must be a stable executive and as responsible executive. Unfortunately, it has not been possible so far to devise a system which can ensure both in equal degree. You can have a system which can give you more stability but less responsibility but you can have a system which can give you more responsibility but less stability.”

At the end, he has said about the daily assessment of responsibility which is not available in the American system that it is felt far more effective than a periodic assessment and far more necessary in a country like India. So, both these systems were considered in the light of stability and accountability and deliberately, we have chosen this system. Unfortunately, after certain years, when instability was seen in certain States or in the Centre, many people from India started thinking in terms of Presidential system. The first of the gentlemen to think about it is our President, Mr. R. Venkataraman. He introduced a resolution on 27th May, 1965 in the all-India Congress Committee regarding review of the Constitution in the light of the instability in Kerala State. Similarly, several thinkers like J.R.D. Tata, B.K. Nehru and K.M. Munshi who supported parliamentary democracy very vehemently, at the end, said that if they were to make a choice again, they would vote for Presidential system again. Therefore, some of them are still thinking whether we should find out an alternative because in order to meet the challenge of instability, perhaps presidential system is the better system. But I submit that the remedy is worst than the disease and we should never think of changing or shifting from parliamentary democracy to any other form of democracy, particularly to Presidential system of democracy. From a distance, it appears that the America Presidential system is far better. There, the President at least continues for a fixed period and there is great stability. But all the reports show that it is only a stability of years for the President but as far as the Government is concerned, it is very much unstable because the Congress is elected after every two years and one-third of the Senate is elected after every two years and many times, the President and the Legislature belong to different political parties and lot of confrontation go on throughout the career of the President. I have got a table showing presidential box score on proposals submitted. whatever proposals submitted by the President to the congress during 1953-75 show that the percentage of approval

by the congress of the proposals of the President range from 27 percent to 75 per cent. So, maximum is 75 per cent and in some cases, in 1963 proposals submitted by the President, the percentage of approval was only 27 per cent. Therefore, throughout his career, he is unstable. Though his period is fixed, his tenure is so unstable and he has to depend upon the congress men who are elected and mostly, they belong to other political parties. So, he has to satisfy them and remain in power and conduct the administration of the country.

Sometimes, we are given the example of the French Constitution. It is still worse there. There, the President is elected and if he has to be removed, then two-third majority has to be shown and as soon as no-confidence motion is passed against the president, he has the right to dissolve the Parliament and once he has dissolved the Parliament, there is no confidence against him. He appoints the Prime Minister but he cannot dismiss that Prime Minister. That Prime Minister is again responsible to Parliament and therefore, in France also, we see that it is difficulty. Prime Minister is of another party and he belongs to different party and then administrative difficulties arise to such an extent that it is difficult to run the administration. Therefore, from a distance, we feel that there is stability. President is there for a fixed period but there is a quite unstabled Government as far as the administration is concerned. Therefore, we should never have the wrong decision of falling into the trap of the presidential system, considering all these things.

Then, sometimes, other proposals are made, about the list system. List system is not suitable for such a country where illiterate people vote only on symbols. They cannot even read the names of the candidates. So, the list and the Presidential systems are not applicable in such a vast country at all. A proposition is made or the grievance is made that minority vote gives the power. But that difficulty is there in all parliamentary systems wherever they are there. The party in power does not get the full majority votes. They get 40 to 45 per cent. But still they are in power and we still choose that system because it is very accountable to the people. And that is the essence of democracy. Day to day assessment must be there and it does not matter if there are elections more times. But everyday the executive has to see the challenge of the people. He has to see that no no-confidence motion is passed against him. That is his test because every day people assess him. He has to take care of the public opinion throughout his career because he is afraid of the No-Confidence Motion. There should never be two centres of power.

Sometimes it is suggested that let the Executive Head be elected. Sometimes Shri Sathe had suggested this. Today, he has got very specific points and made out. But, his earlier speeches in different for a suggested that the President should be elected though Parliament is there. But, then there will be two centres of power. President is elected directly and then Parliament is also elected directly; but if the President is not responsible to the Parliament then two centres of power work at the same time. That is not good for the administration; that is not good for the democracy at all.

Therefore, even though it is said that you make a small amendment in the Constitution saying that the President will be elected directly. No. That will not work. It will change the whole basic structure of our Constitution. Even though no political party mentions that, Article 75(3) clearly says that the Council of Ministers will be responsible to the Parliament. That means that there will be party system and that party Government will be responsible to the Parliament so that the party will have a majority in the Parliament. Then only it can work and otherwise it cannot work at all. Therefore, it is given impliedly in our Constitution that there will be a party system; there will be party Government which will be responsible directly to the Parliament. As far as the President is concerned, he is the Head of the Executive; but he has to act as per the advice of the Council of Ministers. That is there in our Constitution.

Therefore, small changes here and there will not be small at all. They will go counter to the basic structure of our Constitution and we should not touch our Constitution. If we just touch it even very slightly, the whole basic change will be there. A very ideal Constitution is there which is responsible to the masses. It does not matter and you do not get panicky, if there are elections after two or three years. It does not matter. But, between stability and accountability, we should always prefer accountability. That is more important from the democratic point of view. Even if there is less stability, it does not matter. We should emphasise accountability, as far as our Government, our democracy is concerned. Therefore, I submit that we should never think of changing this parliamentary system of Government; should not shift to any other system. That will be the end of the basic democracy in this country.

Dr. Justice B.N. Misra, Chief Justice, Sikkim High Court: Mr. Chairman Shri Buta Singhji and distinguished friends, I must first thank you for the invitation to come here today and join you in this important deliberation. I am most grateful. Of the four topics which were circulated, some how,—may

be deliberately or unwittingly, I do not know—I got trapped by that word 'versus'. It was almost like looking at the cause-list in the court, 'accountability versus stability'; and that explains why I chose to speak on this subject. Frankly, I have not been able to comprehend why one should be considered as opposed to the other. This point was made out earlier by Shri Sathe also. I do not think the two are mutually exclusive. In a way, accountability perhaps ultimately leads to stability. It has always been considered as a part and parcel of the parliamentary form of Government where there is collective responsibility of the Council of Ministers and accountability of the Executive to the Parliament. Accountability of the Council of Ministers is considered to be the cardinal feature of parliamentary form of Government. At the sametime, if this principle of accountability is now considered—after 42 years of the Constitution having been in force—as the reason for lack of stability, then, perhaps time has come for us to ponder and consider whether it is the Constitution which has failed us or we have failed our Constitution. Here, I do not want to point an accusing finger at any particular institution. The three institutions—the Parliament, the Executive and the Judiciary—perhaps are equally responsible for the state of affairs which exists today. The responsibility for this should be shared by all of us so that we all may take a responsible view in the matter. In this context, I would like to emphasise one point. Stability at the Centre is as important as stability at the State level. In fact, stability in the States should result in stability at the Centre. In this context I would like to refer to a few lines written by a constitutional expert in the year 1953. He is Prof. K.C. Wheare. In his book on "Federal Government"—Third Edition of the year 1953—at page 51, he writes about the Indian Constitution. He has said:

“So far as future Constitution of India is concerned, it is essential that the units in a federation, when a federation is established, should have produced for themselves, stable Governments with some history and tradition of working in the regions with some roots with the people. For this reason, it is important that when the general Government of India is established the regional Governments should have proved themselves”.

Prof. Wheare here argues that stability in the units, at the regional or the State level is very important, and as essential or at least as important as the question of stability at the Centre. But, as I said earlier, accountability perhaps has little to do with stability. Lack of stability, perhaps, is the result of

factors other than accountability. Here, I am only referring to facts which have already been discussed and I agree that we should have amendments, but not of the Constitution, I repeat, not of the Constitution. It is a document which represents the dreams and aspirations of the founding fathers. All said and done, with the greatest respect to the Constitution, it is certainly already a bulky document. There can be no doubt about it. 395 articles is quite a large number. For the purpose of securing stability, it is neither desirable nor necessary to amend the Constitution.

Legislation should be undertaken in the field of electoral reforms.

Many Hon. Members of Parliament have mentioned more than once about muscle power and money power. Some legislation should be there so that this is obliterated altogether.

Similarly, one ex-Minister mentioned about the ceiling on expenditure in elections. Supposing the ceiling is raised from Rs. 40 lakhs to Rs. one crore, the question is where does that one crore come from? This is a question which I ask myself. Frankly speaking, I do not know the answer. I do not have a clue. Those who contest perhaps know. I may be desirable in the interest of the country that the State should take up the responsibility of funding the election expenses. That burden should not be placed on the individual candidate or party.

The other suggestion which was earlier made was that in a multi-party system, we must devise ways and means of confining the parties to two or three. As you are aware, in the American system, the President is elected on the basis of electoral colleges. But what he in fact does is to win over a particular State and if he wins that particular State, then all the votes of the electoral colleges in that State go in his favour whereas if he loses in that State, all the votes of electoral colleges in that particular State go against him. This has prevented mushroom growth of smaller parties because it is too much to expect minor groups or individuals to win the entire votes of a particular State. How the electoral process may be reformed by suitable legislation needs serious examination so that it may not be necessary to amend the Constitution solely for the purpose of securing stability.

Lastly, so much has been said about morality in the country as it exists today. I do not think I have anything to add.

Thank you very much.

Shri Anil Mukherjee: *Deputy Speaker, West Bengal Legislative Assembly:* Mr. Chairman, Shri Buta Singh, hon. Judges, Presiding Officers of our coun-

try, jurists, journalists, If we take the point of accountability versus stability, the definition of accountability connotes the answerability to the executive in a parliamentary system of government. There is more stability in presidential form of government. So, accountability versus stability sometimes may connote that parliamentary system versus presidential system.

A question can be asked in another way, whether in a parliamentary democracy, this stability is essential or not. First of all, I take up the matter of accountability which means answerability to the House or to the legislature. Somebody raised the question whether we can switch over to presidential form of government. Some discussion took place on this subject earlier also.

Throughout the whole world, there are mainly two systems, presidential form of government and parliamentary form of government. We have seen that about 50 per cent of the total UN membership are Members of Commonwealth countries. More and more countries have switched over to parliamentary system. England which is the home of parliamentary system of government have ruled our country for about 200 years. We all know that we have started our parliamentary democracy under the Act of 1861. That is the germination of the parliamentary democracy in India. Thereafter in 1892 we had a Council Act giving power to local self-government because in the 19th century, there was only one organisation which was the Congress in our country. That was a platform rather, we can say, because Congress was not a political party till 1947. It was a platform from where all the people of India or people of different opinions used to gather on the platform to drive out the imperialist forces. In that platform, there were two set of people. Within the Congress, one was moderate and another was extremist. The moderate was constitutional. They wanted more powers. They used to pray to the British Government to allow us to involve ourselves in self-government. There was a sort of constitutional agitation from the beginning of 1861 and then in 1892, and then in 1909 Morley-Minto reforms were enacted subsequently in 1919 Montague Chelmsford reforms which is a Government of India Act was enacted when a responsible system of Government was introduced first and the British deliberately introduced a responsible system of government in India. But that failed. Thereafter in 1935, India Government Act was promulgated. That was *suo motu* by the British gave that Act. That model is the present Constitution.

From 1861 to 1947, we, the people of India, were habituated to the parliamentary system of democ-

racy. The people of India have become accustomed to the parliamentary system of democracy. So, from 1947 onwards, till 1992, if you analyse the history of the working of parliamentary democracy, you will find that in our country from 1967 to 1972, there was some ministerial instability and during that period in our history we had maintained a stable parliamentary system of government in our country. At the present time, in the Centre and in the States, in a parliamentary system of democracy, party system is very very essential because in England or in a presidential form of government also, the party system must have party discipline. A question was raised here whether the multi-party system functions properly. In West Bengal, you will see that near about nine Left parties combined and are ruling from 1977 to 1992.

There was no defection; there was no instability. Ministerial stability was there for 14 years. But in some States you will find that though one-party rule was there, there was a ministerial instability. Recently, at the Centre also the Ministerial instability of this type was there. We have seen that during the last few years, there was a quick succession of elections held. What is the cause? In India we have seen in different States the rise of the regional parties. But up to the time of Pandit Jawaharlal Nehru—till 1967—there was no Ministerial instability. There was no question of either instability or stability at the Centre. In all the States, one-party was strong. There was mono-party rule. Gradually, when different regional parties arose, they sent representatives to the Parliament and the one-party rule came to an end. As a result of that, this type of having a different-parties combination at the Centre with their different-parties in the State gave rise to the question of instability. Now, we are discussing the aspect of stability. We have expressed our apprehension. We also apprehended that there would again be elections which would be very costly. We also felt that an unstable Government might come into being. Only recently, this Government became a stable Government here. There was an apprehension that at any moment that could be toppled. We are very much apprehending that thing now also. So, naturally the question of accountability and stability arose in our own minds.

Now, I would like to say that stability depends on the principles of the political parties. If a party is an organised party, if a party has a great concept, then there will be no defection. When there is a party loosely-knit, that party has no political basis, then the question of defection arises. You will find that in West Bengal, for the last 15 years, not a single

defection has taken place. One Shri Jatin Chakravarty, who was a Minister, he defected and when he defected, people have rejected him. If you make the people politically educated, if they are politically conscious, then they will reject the Members who defect in order to get ministership. In 1967-69, we have seen that one MLA changed his loyalty five times for getting a seat and Ministership. So, in the Anti-Defection Law, we have provided a provision for defection also. There is a permissive defection. There is such a provision in the law. On the other hand, if you make a law stating that any one who defects a party or changes the party, will not be a Member, then the defection can be stopped. If a person changes his party, he will not be a Minister and if such an enactment is there, then the Members will not change the party. So, as I have stated, in the law itself there is a permissive defection. If one-third of the Members of the party form a group and defect, then they will be allowed to form a party or group. In this way, the defection is permissive in our Anti-Defection Law. So, I think when you strictly formulate a law stating that defection will be prohibited, then stability of the Government will be assured.

As far as accountability is concerned, in a Parliamentary Democracy, it is the joint responsibility of the Government. The Executive or the Ministers are responsible to the legislature. This is the concept. How will that be realised? We have the Parliamentary Committees like the Public accounts Committee, Public Undertakings Committee and the Estimates Committee. Through these Committees we generally get answers. We can catch hold of the Executive. There is financial scrutiny of the budget and all these things, which is also done not by the Committee but by the C&AG. Now, the C&AG is not an officer of the Lok Sabha or the Lok Sabha Secretariat. His staff are also a different staff. In West Bengal, we have the main system of Subject Committees. Likewise, in the Lok Sabha also, I think there are three Subject Committees which have been appointed recently. In Kerala also, the Subject Committees have been introduced. The Subject Committees are scrutinising the Budget. In West Bengal, our House spends time in the Subject Committees. After the introduction of the Budget, the House adjourns for a month or so, the Subject Committees, in respect of different Departments scrutinise the Budget. There also, the Minister is not the Chairman of the Committee. The Minister is a Member of the Committee. The Chairman has elected from amongst the Members. So, the Executive is responsible to the Legislature. That system has been there in West Bengal. But in Kerala there is one difference. The Minister is the Chair-

man. There, the Executive is not responsible. The Executive makes the Chairman of the Committee. There lies the fault. What I want to point out is that more and more committees should be there as they are there in Great Britain. I think since 1979, there the Select Committees have been there. They are making Executive responsible to the House. In this way, the Executive will be answerable to the legislature.

Then, in our party-system, the manifesto is given and the people will decide for themselves about the selection. The people will decide about the worth of the party which is in power. So, they will be responsible and answerable to the people as to what they have done. They are answerable to the people as far as the manifesto is concerned. In a Parliamentary Democracy they are quite answerable; they are accountable to the Legislature. If the Government is stable, then the answerability or the accountability can be achieved. If the Government is not stable, then the Committee cannot be able to function. If the Ministerial instability is there, then the bureaucracy will have the powers and they are not answerable. Then, there will be no responsibility of the Ministry to the Legislature. So, the bureaucracy will have power and the Parliamentary Democracy will come to a standstill. This is my humble submission.

Shri Buta Singh: Now, we have with us the most experienced hand so far as the Constitutional Law is concerned. We have with us Prof. P.M. Bakshi, Director, Indian Law Institute and a former Member of the Law Commission of India.

Prof. P.M. Bakshi, Indian Law Institute: Mr. Chairman and friends, since we have been working right from the early morning, I will not take more than five minutes because it has been a very heavy session. With your permission, Sir, I will begin with a very light anecdote which illustrates the advantages and disadvantages of stability and Accountability. This is a story told by Stephen Leacock, a very well-know humorist. He stated that a gentleman had 10 pounds with him. He went to a bank and deposited the amount in the bank. After an hour, his mind started becoming rather unstable. He was not very sure whether he had done a correct thing in putting the 10 pounds in the bank. So, he withdrew five pounds and only five pounds were left in the bank. Thereafter, again he started thinking that even the five pounds which were left in the bank would not be very safe and, on the same day, he withdrew the rest of the five pounds also and closed the account. So, he was thinking of the accountability of the bank which made his own mind very unstable. The point

has been correctly made here. Article 75 (3) of the Constitution says:

“The Council of Ministers shall be collectively Responsible to the House of the People.”

When we introduced this Article, we made an irrevocable choice in favour of the aspect of stability. It does not mean that an unstable Government was favoured. But if there is a situation of conflict we preferred accountability. But I would submit that the choice was made much long before the Constitution. We have forgotten our political history. During the British period, whenever the people with patriotic zeal fought for freedom or raised questions with the British, asking for Home Rule and thereafter for independence, the stock answer which was given by the British administrators was “Well, we are giving you a good government and what more do you want?” The answer which our people gave was, “Very good government is no substitute for Self-Government”. If there is going to be a conflict between one value and the other value, we made a choice long ago, that is, we want democracy and the essence of democracy is accountability.

But I view accountability in a much wider perspective. My analysis is, that there are three kinds of accountability which are implicitly contemplated by the Constitution. The first is that the Government is responsible to the House of People. That is given expressly in the Constitution. But the second is that the House of the People or you can say the representatives of the people taken as a group, they are accountable to the people. The Constitution does not say so. But, when you utter the words, the House of the People—Lok Sabha—that is an implicit postulate. That is the second aspect of accountability.

But a much more important aspect is that, you transfer accountability to the House of the People, and then it is transferred to the people themselves. But then, to whom are the people themselves accountable? That is a big question. Mr. Justice Khanna very rightly pointed out that we have to evolve a kind of a constitutional discipline, a kind of constitutional morality, a kind of constitutional ethics of good conduct. The people are accountable to their own conscience, and, if the people fail themselves, I do not think that any Constitution can save them.

Thank you.

Mr. Chairman: Friends, these Seminars which were started with the blessings of the hon. Speaker and cooperation of the various forums have one mission to establish which was the theme of the hon. Speaker's inaugural address, that is to throw up the ideas with a view to cope up with the situation that is there

in the country both in the political field, social field and in the economic field. The Centenary celebrations of Babasaheb Ambedkar will continue for one more year, as it has been extended by a resolution of the National Committee. We propose to hold the seminars throughout the country and we had decided to have regional seminars also one in the East, one in the West and one in the North.

The hon. Speaker has given us his mind that we should organize these seminars specially with a view to involve all the legislators, young and the old, even Ex-MLAs, EX-MPs, who have taken lot of interest in the development and functioning of the Constitution especially on the ideas of Dr. Babasaheb Ambedkar. I am today very much pleased to note that the presence in today's seminar has been very very successful. The Presiding Officers from most of the States, their Deputies, they have participated, and hon. Judges of the Supreme Court, hon. Judges of the High Court, hon. Members of Parliament and Experts on the subject, both from the institutions as well as from public, have participated. I hope that tomorrow this Seminar will add further. And today's Seminar has been highly illuminating and most educative.

May I now request Shri Om Mehta to propose vote of thanks to the participants.

Shri Om Mehta: Hon. Speaker, hon. Law Minister, Shri Buta Singh, participants and friends:

This seminar has been very educative and very interesting. Many speakers have emphasised the stability and accountability. This has given a very good knowledge not only to the Secretariat but also to the participants who have been participating in this Seminar.

I thank everybody, the hon. Speaker, Shri Buta Singh and the Speakers of Assemblies for coming and participating in this Seminar.

Thank you very much.

Shri Anil Mukherjee, Deputy Speaker, West Bengal Legislative Assembly: Mr. Chairman, on the occasion of Dr. Babasaheb Ambedkar's Birth Centenary Celebrations, may I suggest that all his speeches, especially the debates of his in the Constituent Assembly, as the Chairman of its Drafting Committee, and the verbatim discussions which are on record may be published.

Mr. Chairman: The Lok Sabha Secretariat already proposes to do that. As usual, we will meet tomorrow at 10 o'clock.

(The Seminar then adjourned for the day)

**PROCEEDINGS OF THE SEMINAR ON CONSTITUTION OF INDIA
IN PRECEPT AND PRACTICE**

26 April, 1992

Mr. Chairman, Shri Buta Singh: Hon. Shri Lal K. Advani, Leader of the Opposition, Hon. Presiding Officers, Hon. Judges, Hon. Members of Parliament, distinguished participants, ladies and gentlemen:

We continue the discussion on the National Seminar organised by the blessings of the hon. Speaker and the Bureau of Parliamentary Studies on the issue that has been set forth as the theme of our National Seminar. This is yet another humble tribute to the great son of India Dr. B.R. Ambedkar that the parliamentarians thought. The best tribute could be to go into the various aspects of Indian Constitution which he fathered as the Chairman of the Drafting Committee.

Yesterday's seminar covered a wide spectrum. Today we are privileged to have the Leader of the Opposition Shri Lal K. Advani who is an eminent national leader and the theme of today's discussion will be the Constitution of India and the National Integration.

We have a large number of participants who are keen to participate in the deliberations. I will try to accommodate as many as possible. In case it is not possible in the first session, you kindly permit me to make the best use of your deliberations in the second part of the Seminar which will be after the lunch.

Yesterday, while inaugurating the National Seminar, the hon. Speaker made it very clear that the individual participants who are contributing their views on the themes set forth are free to dilate and it need not be taken as the official version either of the party they are heading or the organisation that they represent in this Seminar. Therefore, he has removed almost all inhibitions and barriers on the scope of its discussion of this Seminar.

We are, as I said, privileged to have today this morning the Key-Note Address from one of our national leaders Shri Lal K. Advani. I will now request him to start his Key-Note to the Seminar.

श्री लाल कृष्ण आडवाणी: कल से आरम्भ हुई इस संगोष्ठी के

सम्माननीय सभापति श्री बूटा सिंह जी, देश के विभिन्न विधानमंडलों के आदरणीय अध्यक्षगण, उपस्थित न्यायाधीशगण, मेरे सहयोगी सांसद और अन्य उपस्थित विशिष्ट अतिथिगण, मैं समझता हूँ कि डाक्टर बाबा साहेब अम्बेडकर के शताब्दी वर्ष में, उनके प्रति श्रद्धांजलि अर्पित करने के जो विविध कार्यक्रम हुए हैं, उनमें ब्यूरो ऑफ पार्लियामेंटरी स्टडीज द्वारा अन्य संस्थाओं के सहयोग से आयोजित यह दो दिन की संगोष्ठी एक बहुत महत्वपूर्ण कार्यक्रम बनी थी और अगर इस कार्यक्रम में से, इस चर्चा में से वास्तव में कुछ परिवर्तन देश की परिस्थितियों के अनुरूप समस्याओं के निराकरण के लिये, आवश्यकतायें उभर पाएँ और एक कन्सेन्सस बन पाये और इसमें से कुछ संशोधन निकले तो मैं समझता हूँ कि एक स्थायी उपलब्धि हो जायेगी।

यह तीसरा सत्र है, जिस में मुझे कहा गया है कि मैं देश की एकता और इस संदर्भ में भारतीय संविधान की चर्चा करूँ। भारतीय संविधान 1950 में बना और देश 1947 में आजाद हुआ। जिन परिस्थितियों में आजादी आई, जिस पृष्ठभूमि में यह संविधान निर्मित हुआ, उसको अगर हम ध्यान में रखेंगे तो सहज समझ में आयेगा कि संविधान निर्माताओं के मन में राष्ट्र की एकता और उसकी चिन्ता सर्वोपरि थी क्योंकि देश आजाद हुआ 1947 में शताब्दियों की गुलामी के बाद, लेकिन आजादी के साथ जितना उल्लास होना चाहिये था, वह उल्लास इसलिये नहीं हुआ क्योंकि आजादी के साथ-साथ देश का विभाजन भी हुआ। ज्यादा दुख की बात यह है कि विभाजन का आधार यह कल्पना थी कि यह राष्ट्र एक नहीं है, यह दो राष्ट्र हैं, इसका ज्यादा दुख था। यद्यपि उस समय के हमारे नेतृत्व ने विभाजन स्वीकार किया, लेकिन विभाजन की आधार कल्पना को स्वीकार नहीं किया और न ही करना चाहिए था।

मैं हिंदी में जानबूझकर बोल रहा हूँ क्योंकि मेरे वक्तव्य की प्रति केवल अंग्रेजी में तैयार हुई है, हिन्दी में तैयार नहीं है। इसीलिए मैं समझता हूँ कि भाषांतर भी हो रहा होगा, उसकी दिक्कत नहीं होगी, फिर भी अगर आग्रह होगा तो बीच-बीच में मैं अंग्रेजी का प्रयोग करूँगा, उसमें कोई दिक्कत नहीं। What I would like to stress is that even though the country's leadership reconciled to partition reluctantly, they did not accept the two-nation thesis which was responsible for partition.

इसीलिये स्वाभाविक था कि जिस समय हमारे संविधान की निर्मिता के लिये हमारे संविधान सभा के लोग इकट्ठे हुए तो उनके मन में यह बात छाई हुई थी कि एक बार यह विभाजन हुआ है, यह देश टूटा है और इस

आधार पर टूटा है कि यह राष्ट्र एक नहीं है, तो कम के कम हमारी जो मान्यता है, जिन्होंने विभाजन को पहले नहीं माना था और विभाजन को ठीक नहीं माना था, वांछनीय नहीं माना था, मजबूरी में हमने स्वीकार किया, वहां कम से कम संविधान बनाते हुए इस बात को बल दें, प्रावधानों को बनाते हुए इस बात को ध्यान में रख कर कि यह कोई आज बना हुआ देश नहीं है। आखिर, इस बात को कोई भूल नहीं सकता कि अंग्रेजों ने इस बात का बहुत प्रचार किया कि यह देश कभी एक रहा ही नहीं। यह अगर बना है, तो केवल अंग्रेज के शासन के कारण बना है। यह बहुत प्रचारित करते थे, लेकिन पूरा समय हमने जब आजादी की लड़ाई लड़ी, तब हमने अंग्रेजों द्वारा इस प्रचार को भी कभी नहीं माना और हमने कहा है कि यह ठीक है कि पूर्वकाल में जब संचार के साधन, यातायात के साधन इतने अधिक नहीं होते थे, तब यह हो सकता है कि राजनीतिक दृष्टि से यहां पर अलग-अलग राज्य हों। लेकिन राष्ट्र की एकता की कल्पना और वह सांस्कृतिक एकता की कल्पना तो यहां पर शताब्दियों से रही है। जगतगुरु शंकराचार्य जैसे व्यक्ति, जिन्होंने कलड़ी में जन्म लिया, केरल में दक्षिण में और अपने आध्यात्म का जब वे प्रचार करने के लिए निकले तो उन्होंने आसपास के क्षेत्रों तक ही अपने को सीमित नहीं रखा, वे काश्मीर तक गए। धाम स्थापित किए तो देश के, जिसको आज हम देश मानते हैं, भारत मानते हैं, चारों कोनों में स्थापित किये। मैं इस विषय पर विस्तार से नहीं जाता हूँ, लेकिन इतने तथ्य हमारे संविधान के निर्माताओं के ध्यान में पूरी तरह से थे। यहां तक कि कल इस बात का उल्लेख आया था, मैं भाषणों को देख रहा था, हमने यूनियन-आफ-स्टेट्स शब्द का प्रयोग किया। यह चर्चा बिल्कुल आई, जब अनुच्छेद-1 में बहस हो रही थी, तब इसका जिक्र आया था और ड्राफ्ट कान्स्टीचूशन तो पहले बना था, उसमें फ़ेडरेशन-आफ-स्टेट्स लिखा हुआ था। ड्राफ्टिंग कमेटी, जिसके अध्यक्ष बाबा साहिब अम्बेडकर जी थे, उस कमेटी ने उसको बदलकर फ़ेडरेशन-आफ-स्टेट्स की जगह यूनियन-आफ-स्टेट्स लिखा। कुछ सांसदों ने, कुछ सम्माननीय सदस्यों ने उस पर फिर से संशोधन प्रस्तुत किए कि फ़ेडरेशन लाना चाहते हैं। श्री केटी शाह ने अमेन्डमेंट दिया था, लेकिन उस संशोधन को तो संविधान सभा ने अस्वीकार किया और जो तर्क दिए, डाक्टर अम्बेडकर जी के शब्द बहुत ही महत्वपूर्ण हैं। उन्होंने इस बात को समझाते हुए कहा—एक तो यह कहा कि यूनियन शब्द प्रयोग करने का मतलब यह नहीं है कि हम कोई फ़ेडरेशन नहीं मानते हैं, हम कोई यूनियन स्टेट बनाना चाहते हैं, यह कल्पना किसी के मन में न हो, हम फ़ेडरेशन चाहते हैं, लेकिन फ़ेडरेशन की सीमा से हम चिन्तित हैं उनके शब्दों को मैं यदि उद्धृत करूँ, तो उन्होंने कहा—

“Some critics have taken objection to the description of India in Article 1 of the Draft Constitution as a Union of States. It is said that the correct phraseology should be a Federation of States. It is true that South Africa which is a unitary State is described as a Union. But Canada which is a Federation is also called a Union.”

उन्होंने यह भाव व्यक्त किया कि यूनियन शब्द का प्रयोग करने से स्वतः यह बात नहीं आती है, यूनियन स्टेट्स थे या फ़ेडरेशन स्टेट्स थे।

साउथ अफ्रीका जो यूनियन स्टेट है, वह यूनियन कहलाता है। कनाडा, जो फ़ेडरेशन स्टेट है, वह भी यूनियन कहलाता है।

“Thus the description of India as a Union, though its Constitution is Federal, does no violence to usage. But what is important is that the use of the word Union is deliberate.”

ड्राफ्टिंग कमेटी ने इस शब्द का प्रयोग सोच विचार करके किया है। सुविचारित रूप से किया है। फिर वे कहते हैं—

“I do not know why the word ‘Union’ was used in the Canadian Constitution. But I can tell you why the Drafting Committee has used it. The Drafting Committee wanted to make it clear that though India was to be a federation, the Federation was not the result of an agreement by the States to join in a Federation and that the Federation not being the result of an agreement no State has the right to secede from it.”

फिर उसके बाद उन्होंने कहा है, मैं उसको बहुत ही स्मरणीय शब्द मानता हूँ।

“The Federation is a Union because it is indestructible. Though the country and the people may be divided into different States for convenience of administration the country is one integral whole, its people a single people living under a single imperium derived from a single source. The Americans had to wage a civil war to establish that the States have no right of secession and that their Federation was indestructible. The Drafting Committee thought that it was better to make it clear at the outset rather than to leave it to speculation or to dispute.”

यह है, चिन्तन ड्राफ्टिंग कमेटी का, डा० अम्बेडकर का और संविधान सभा का जिस समय उन्होंने यूनियन आफ स्टेट्स शब्द प्रयोग कर रहे थे, स्वीकार कर रहे थे आर्टिकल—1 में।

पिछले दिनों मुझे विदेश जाने का अवसर मिला और बहुत भारतीय लोगों से अनेक स्थानों पर मिलने का अवसर मिला। मैंने वहां एक बात पाई, क्योंकि पिछले दिनों रूस में कुछ घटनायें घटीं और वहां पर भारत की जो खबरें छपती हैं, उनमें बाकी खबरें नहीं छपती हैं, वहां खबरें छपती हैं कि पंजाब में इतने लोग मारे गए हैं, काश्मीर में इतने लोग मारे गए हैं और असम में उल्फा द्वारा यह हो रहा है। यही खबरें यदाकदा विदेशी अखबारों में छपती हैं और कुछ नहीं छपता है। सहज स्वाभाविक रूप से जितनी सभार्यें हुईं, उनमें जितने भी भारतीय मुझे मिले, उन सभी ने मुझ से एक ही सवाल पूछा—क्या भारत की एकता को कोई खतरा तो नहीं है, रूस जिस प्रकार से विभाजित हो गया, वैसा कुछ भारत में तो नहीं होना है? यह मन की उनकी चिन्ता बहुत गहरी थी। मैंने जो विवेचन उनके सामने रखा, मैंने उन को कहा कि चिन्ता का कोई कारण नहीं है। आज जब हम संविधान पर चर्चा कर रहे हैं, तो मैं इस प्रश्न को महत्वपूर्ण मानता

हू। संविधान में और बातें भी हैं, जिसके कारण हमारी आजादी को खतरा आया है। इस पर हमको सोचना पड़ेगा। मेरी अपनी मान्यता है, मैं उनका वर्णन करूंगा। संविधान बनाते समय संविधान सभा वालों ने बहुत इसकी चिन्ता की है। फ़ैडरल स्ट्रक्चर स्वीकार करते हुए भी उन्होंने एक प्रकार से यूनिटरी बनाये रखा। उसके कारण भी समस्यायें पैदा हुई हैं मैं इन्कार नहीं करूंगा, लेकिन जितने भी प्रावधान हैं, उन प्रावधानों में एकता को महत्व दिया गया है। अमरीका में, मैं बताना चाहता हूँ, दो सिटीजनशिप होती है—एक फ़ैडरेशन सिटीजनशिप होती है और दूसरी स्टेट सिटीजनशिप, लेकिन हिन्दुस्तान में शुरू से ही हमने सिंगल सिटीजनशिप स्वीकार की है। कोई सिटीजन कहीं का हो, वो सिटीजन भारत का है। कोई ऐसा नहीं है कि महाराष्ट्र का सिटीजन है, तो महाराष्ट्र की सिटीजनशिप अलग है और यूनियन सिटीजनशिप अलग है। तमिलनाडु की सिटीजनशिप अलग है और केन्द्र की नागरिकता अलग है, ऐसा प्रावधान नहीं किया है। एक अपवाद, जिस अपवाद की चर्चा मैं यहां नहीं करता हूँ क्योंकि मेरी सोच उसके बारे में अलग है। मैं समझता हूँ कि अपवाद जब किया गया, तब भी संविधान सभा में अपवाद करते हुए जम्मू-काश्मीर के बारे में खेद व्यक्त किया गया कि हम यह अपवाद कर रहे हैं। वहां पर सिटीजनशिप नहीं है, लेकिन रैजिडेंट के नाते वहां पर अधिकार है और जो अधिकार यहां है, वह वहां पर प्राप्त नहीं है। यह खेद व्यक्त करते हुए, गोपाल स्वामी अयंगर ने कहा—मैं आशा करता हूँ, यह जो अपवाद जम्मू-काश्मीर के बारे में है, वह अस्थायी तौर पर होगा और समय आएगा शीघ्र, जब जम्मू-काश्मीर का भी उसी प्रकार से विलीनीकरण हो जाएगा देश के साथ, जैसा बाकी सब रजवाड़ों का हुआ है।

लेकिन एक नागरिकता देना, यह देश की एकता को बल देना था। यह पुरानी बात है कि हमेशा से लेकर इस बात पर गर्व करते आए हैं। हमारे देश की विशेषता है कि विविधता में एकता है। इतना बड़ा देश है, इतना बड़ा राष्ट्र है, इतनी भाषाएं और मजहब हैं और भाषा-भूषा तथा रहन-सहन है। इसमें इतनी विविधता है। लेकिन इस सारी विविधता के बावजूद इसके नीचे एकता पर गर्व करते हैं। 1947 से पहले जब विविधता में एकता शब्द का हम प्रयोग करते थे तो हम एकता को अन्डर-लाइन हमेशा करते थे। विविधता का सबको ज्ञान है लेकिन एकता का ज्ञान नहीं होता था। एकता के लिए अन्डर-लाइन करते थे। 1947 से पहले मेरे मित्र स्व० श्री जननाथ राव जोशी हमेशा हमको बताया करते थे, जब वे स्कूल और कालेज में थे और जब वे स्वतंत्रता आन्दोलन में भाग लेते थे, उन्होंने कहा कि विजयी विश्व तिरंगा झंडा ऊंचा रहे हमारा। हिन्दी गीत ही गाते थे और प्रभात फेरियां निकलती थी। कभी किसी के मन में नहीं आता था कि मेरी हिन्दी भाषा नहीं है जबकि कन्नड़ भाषी थे और कारवाड़ या बैंगलोर में हिन्दी में गीत गाते थे। हिन्दी का प्रचार सबसे अधिक इन्हीं नेताओं ने किया। स्वामी दयानंद जी से लेकर सुभाष चंद्र बोस तक सभी ने किया जबकि वे सब गैर-हिन्दी भाषा भाषी थे। मैं कुछ समय सूचना और प्रसारण मंत्री रहा हूँ। मैं हमेशा इस बात का उल्लेख करता रहा कि हिन्दी फिल्म इंडस्ट्री अगर कहीं पनपी तो हिन्दी भाषी प्रदेशों में नहीं बल्कि शुरू में कलकत्ता में उसके बाद बंबई में और उसके बाद मद्रास में पनपी। हिन्दी फिल्मों के माध्यम से हिन्दी का इतना प्रचार हुआ जिसकी तुलना नहीं की जा सकती। यह सारी चीजें देश की विविधता के अन्तर्निहित जो एकता है, वह एकता स्वाभाविक रूप से पूरे आन्दोलन में उभरकर आती

थी। उसी भाषण में जो ड्राफ्टिंग कमेटी की ओर से ड्राफ्ट प्रस्तुत करते हुए डा० अंबेडकर ने यह लिखा—

“The draft Constitution has sought to forge means and methods whereby India will have federation and at the same time will have uniformity in all basic matters which are essential to maintain unity of the country. The means adopted by the draft constitution are three:

(1) A single judiciary.”

उन्होंने तीन का उल्लेख किया है। एक तो सिंगल ज्युडिशियरी है। यहां पर सम्मानीय न्यायाधीश भी मौजूद हैं। इस बात से कोई इन्कार नहीं कर सकता कि एक सिंगल ज्युडिशियरी की कल्पना में एक न्यायपालिका का कितना बड़ा योगदान होता है। आज हम न्यायपालिका की चर्चा नहीं कर रहे हैं। विगत दस-पन्द्रह सालों में न्यायपालिका में कितनी गिरावट आई और जो गिरावट कार्यपालिका और विधान पालिका में आई है, वह उससे ज्यादा चिन्ता पैदा करती है। कार्यपालिका के बारे में दुनिया आलोचना करती है। विधान पालिका के बारे में कभी-कभी आलोचना कर लेते हैं, चाहे कभी कोई प्रिविलेज का मोशन लगा दें। अब तक परम्परा रही है कि न्यायपालिका की कभी कोई आलोचना नहीं करता। हम संसद में भी मर्यादित हैं। न्यायपालिका का उल्लेख करें तो बड़े सम्मान के साथ होता है जबकि व्यवहार में जो देखते हैं, जो कुछ किया है कितना सम्मान रह पायेगा। यहां पर उस क्षेत्र के बड़े-बड़े न्यायविद मौजूद हैं। कभी अध्यक्ष नहीं रहे होंगे, कभी बार में रहे होंगे या कभी विधि मंत्री रहे होंगे। मैं समझता हूँ कि उनको चिन्ता अलग से करनी चाहिए। देश की एकता के संदर्भ में संविधान निर्माताओं ने जो सिंगल ज्युडिशियरी देश को दी, उसने देश की एकता को बनाए रखने में बहुत महत्वपूर्ण योगदान दिया है।

(2) Uniformity in fundamental laws, civil and criminal;

यह ठीक है कि इस संदर्भ में उन्होंने केन्द्र और उसकी यूनिफार्मिटी की बात की है। डायरेक्टिव प्रिंसिपल्स में यूनिफार्म सिविल कोड” लिखा गया है। उसको भी हम अगर कार्यन्वित कर लें तो उससे देश की एकता को मजबूती मिलेगी।

(3) A common All-India Civil Service to man important posts.

देश भर में एक राष्ट्रीय सेवा की व्यवस्था का अपना योगदान रहा है। उसकी अपनी कमजोरियां या गिरावट एक तरफ है। किसी एक प्रसंग पर चर्चा हो सकती है। इस यूनिफार्म और आल इंडिया सर्विस का एकता के संदर्भ में महत्वपूर्ण योगदान रहा है, इसमें कोई शक नहीं है। 45 साल में परिवर्तन हुआ है। उस समय जहां संविधान सभा में टू-नेशन थ्योरी से परेशान होकर, यह सारी व्यवस्था की, उससे चालीस साल बाद यहां सरकारिया आयोग बनाया गया, केन्द्र और राज्यों के संबंध के बारे में उस बारे में विश्लेषण करने के लिए, अपनी सिफारिश करने के लिए, तो उसको एक चुनी हुई राज्य सरकार एक ज्ञापन देती है कि राज्यों का भाषायी पुनर्गठन हो गया है। मैं उसको कोट करना चाहता हूँ:

“With the reorganisation of the States on linguistic basis, these are no longer mere administrative sub

divisions of the country with their boundaries for the most part a historical legacy. These States are now deliberately reorganised homelands of different linguistic cultural groups. These groups are, in fact, growing into distinct nationalities.”

अब मैं नयी थीसिस मानता हूँ। मैं यह मानता हूँ कि यह भाषायी राज्यों की रचना है और उसके बाद संविधान सभा के दिमाग में कुछ भी हो, यह सारा देश एक है। टू-नेशन थ्योरी हम रिजेक्ट करते हैं, लेकिन एक बार हमने लिंग्विस्टिक रि-आरगेनाइजेशन मान लिया। उसके बाद एक भाषाई ग्रुप एक अलग नेशनेलिटी के रूप में डवलप हो रहा है। उसको जो राज्य ने दिया है, वह उसका होम-लैंड है। उस तथ्य को सबको समझना चाहिए। उसके बाद उन्होंने कहा कि इतनी सारी लिस्ट में यानि यूनियन लिस्ट नं० एक या यूनियन में लिस्ट में तीन-चार विषय होने चाहिए। कम्युनिकेशन, एक्सटर्नल, डिफेंस होने चाहिए। तीन-चार होने चाहिए बाकी सारे के सारे राज्य के पास होने चाहिए। मैं मानता हूँ कि जितनी खतरनाक दो राष्ट्रों की थीसिस थी उससे कहीं अधिक खतरनाक होम लैंड की थीसिस है।

The thesis that India is a multi-national State is more dangerous than even the two-nation theory which led to partition of the country at a time when we had stalwarts as our leaders. As compared to them, the present leadership is small.

उस समय भी दो राष्ट्रों की थ्योरी का हमने कितना रेसीसटेन्स किया। एक बार बहुत बड़ी मात्रा में यह स्वीकृत हो गई, बहुमत ने स्वीकार नहीं किया। अल्पमत ने उसको स्वीकार कर लिया तो हम विभाजन को रोक नहीं पाए। अगर यह मल्टी नेशन स्टेट की थ्योरी अगर यह ऐसे ही स्वीकृत हो गई और उसमें रिस्पेक्टेबिलिटी बढ़ गई तो फिर खतरा विभाजन का नहीं है फिर खतरा विघटन का है तो देश टूट जायेगा। मेरे एक मित्र संसद में थे। आज से आठ-दस साल पहले उन्होंने बहस की थी। मैंने मल्टी नेशन थ्योरी की तीखी आलोचना की थी। You are unnecessarily pessimistic.

आप अनावश्यक रूप से चिंतित हैं। जब देश समर्थ है और आप उसको पहचान नहीं पा रहे हैं। फिर उन्होंने रूस का उदाहरण दिया। उन्होंने कहा कि देखिए रूस ने मल्टी नेशन थ्योरी को स्वीकार किया है। लेकिन उनका संविधान उसी आधार पर बना है। लेकिन उनका जो रिपब्लिक है, उसको सिसैशन का बराबर अधिकार दिया गया है।

लेकिन अधिकार देने के बाद भी किसी ने ससीड नहीं किया। कोई नहीं कहता कि अधिकार देने से क्या होता है। इकोनोमिक कंसिडरेशन है, इकोनोमिक कम्पलशन है जिसके कारण लोग एक साथ रहना चाहते हैं। मैं समझता हूँ विगत दो सालों में घटनायें जो हैं वे इस बात के लिए हमारे लिये शिक्षाप्रद हैं कि केवल मात्र इकोनोमिक कंसिडरेशन के आधार पर आप समझते हैं कि मामला ठीक हो जायेगा। हो सकता है, तो वह पर्याप्त नहीं है। आज यूरोपीयन कम्युनिटी निकट आ रही है, उसमें इकोनोमिक कंसिडरेशन है। लेकिन इकोनोमिक कंसिडरेशन के आधार पर आप नेशन स्टेट को बिल्ड अप नहीं कर सकते। इसको करने के लिए नेशनल आइडेंटिटी, नेशनल कांशियेन्स, नेशनल कल्चर इन चीजों की बहुत

आवश्यकता है। इसीलिए संविधान सभा में जिन बातों के आधार पर संविधान में मूल आधार को और मूल दर्शन को ज्यों का त्यों बनाया वह आज भी इतना जरूरी है जितना 1947 में था, यह मेरी मान्यता है।

इसी कारण जिस दिन मैंने यह मेमोरेंडम देखा जो सरकारिया आयोग को दिया गया था और उसकी अपनी टिप्पणी पढ़ी तो मेरी समझ में आ गया क्योंकि उसने कहा कि:

“We reject this conception of homeland.”

और उन्होंने कहा:

“The whole of India is the homeland of every citizen.”

उन्होंने कहा कि अगर यह मानेंगे तो जो नान महाराष्ट्रियन महाराष्ट्र में रहते हैं, उनका होमलैंड है तो फिर धीरे-धीरे यह बात बढ़ेगी और वह बढ़ती रहेगी कि वे लोग इमीग्रेंट्स हैं उनके साथ ऐसा व्यवहार होना चाहिए, वैसा व्यवहार होना चाहिए, ऐसे बोलने वाले भी लोग हैं और संसद आफ दी सायल आ जाता है। इसका परिणाम हम भुगत चुके हैं, जबकि संविधान में इसको कोई मान्यता प्राप्त नहीं है। इसलिए यह दर्शन कितना खतरनाक हो सकता है, यह सोचना चाहिए। इसलिए उन्होंने कहा कि मैं इस बात को नहीं मानता, मुझे इससे बहुत प्रसन्नता हुई।

मैं सभी प्रावधानों में नहीं जाना चाहता। लेकिन एक ऐसा प्रावधान है जो दुनिया के किसी फेडरल कांस्टीट्यूशन में नहीं मिल सकता। आर्टिकल तीन ऐसा है, कि जिसमें कहा गया है भारत की संसद किसी भी राज्य की सीमाओं को परिवर्तित कर सकती है, उस राज्य को छोटा कर सकती है, बड़ा कर सकती है, दो राज्यों को मिला सकती है, खत्म कर सकती है। आश्चर्य यह है कि इसमें यह भी लिखा गया कि इसमें संविधान में संशोधन नहीं माना जायेगा। संविधान संशोधन करने के लिए अनुच्छेद 368 में दो तिहाई बहुमत चाहिए लोक सभा की कुल ताकत का और राज्य सभा की कुल ताकत का कम से कम आधा। यह जो स्पेशल मेजरिटी चाहिए संविधान का संशोधन करने के लिए आर्टिकल तीन के अधीन अगर किसी राज्य को खत्म करना है लोक सभा या संसद खत्म कर सकती है। मैं इस राय के पक्ष में फिलहाल नहीं जाना चाहता। लेकिन उस समय संविधान सभा में भाग लेने वाले लोग राज्य को, क्योंकि अमरीका में यह शब्द प्रयोग किया जाता है कि The US is an indestructible union of indestructible States.

लेकिन संविधान सभा के मन में यह था कि

India is an indestructible union of destructible States.

मैं समझता हूँ कि इसमें थोड़ा बहुत संशोधन किया जाये कि संशोधन दो तिहाई से होगा जो उपयुक्त होगा, इसमें कोई आपत्ति की बात नहीं है। उसमें स्टेट्स रिआर्गेनाइजेशन की कल्पना थी और इसीलिए वे सोचते थे कि दो तिहाई से करना पड़े उसके बजाय ऐसे ही कर दो और स्टेट्स रिआर्गेनाइजेशन कमीशन की रिपोर्ट कार्यान्वित की गई। स्टेट्स रिआर्गेनाइजेशन एक्ट के द्वारा जो सिम्पल मेजरिटी के द्वारा किया गया।

महत्व की बात है चिन्तन, चिन्तन की देश एक है। राज्य का स्वतः अलग से कोई अस्तित्व नहीं है। उसका अस्तित्व सारे भारतवर्ष के कारण है। लेकिन अनुभव यह बताता है कि समाज का हरेक अंग, हरेक वर्ग,

यह चाहता है कि मेरी जो हैसियत है उसको पहचाना जाये और इसको मैं गलत नहीं मानता हूँ। विगत 45 सालों में जो भी अधिकार केन्द्र को संविधान सभा ने दिये थे उससे भी अधिक अधिकारों का प्रयोग करने की प्रवृत्ति बहुत खतरनाक है। कभी कल्पना नहीं की थी संविधान सभा के निर्माताओं ने कि धारा 356 को इतनी बेदरती से प्रयोग किया जायेगा। बेदरती से प्रयोग करने वाली एक पार्टी है, मैं इसको नहीं मानता हूँ। हमने भी प्रयोग किया, मैं इसको जस्टिफाई नहीं करता। लेकिन केन्द्र में जो भी आता है, उसमें सत्ता की प्रवृत्ति होती है कि हम इन अधिकारों का अधिक से अधिक प्रयोग कैसे करें। धारा 356 का बहुत विरोध हुआ है। संविधान सभा में जिन प्रावधानों पर चर्चा हुई थी उनमें यह भी एक था। लोगों ने कहा कि यह क्यों कर रहे हैं। उस समय प्रोविंसिज़ का प्रयोग करते थे, स्टेट शब्द का प्रयोग नहीं होता था। लोक सभा अगर किसी असेम्बली को बिना अधिकार के भंग कर दे तो यह रोज ही होता रहेगा, राज्यों की सरकारें भंग होती रहेंगी। प्रोविंसिज़ असेम्बली नाम की चीज नहीं रहेगी। डा० अम्बेडकर ने यह जवाब दिया, उन्होंने यह इनकार नहीं किया कि ऐसा नहीं हो सकता है, उन्होंने कहा कि ऐसा हो सकता है। उन्होंने कहा कि:

“I do not altogether deny that there is a possibility of these articles being abused or employed for political purposes. But that objection applies to every part of the Constitution which gives power to the Centre to over-ride the provisions. In fact, I share the sentiments (of Members) that such articles will never be called into operation and that they would remain a dead letter.”

उन्होंने उम्मीद की थी कि यह तो नाम मात्र के लिए रहेगा। केवल दिखाने के लिए रहेगा। एकाध प्रावधान है आर्टिकल 360 है, वह वित्तीय इमर्जेंसी का प्रोविजन है। लेकिन आज तक इसका प्रयोग नहीं किया गया। लेकिन धारा 356 के बारे में जिसके बारे में डा० अम्बेडकर ने आशा प्रकट की थी कि यह एक सुप्त प्रावधान रहेगा, इसको कोई जगायेगा नहीं। इसको 45 सालों में 89 बार जगाया गया है। 352 से लेकर 360 तक 9 प्रावधान हैं, इमर्जेंसी प्रोविजनस हैं जिनमें सबसे अधिक कठोर 352 है। जिसका अनुभव हमने कई बार किया है। जब जब वार हुई, तब तब किया है। लेकिन 352 इनवोक किया गया और इमर्जेंसी लगाई गई, किसी ने आपत्ति नहीं उठाई। हमेशा पार्लियामेंट में इंडोर्स किया गया। लेकिन 1975 में इमर्जेंसी लगाई गई, तब एक प्रकार से अनर्थ हो गया, मैं मानता हूँ कि हिन्दुस्तान में 42 साल के काल में संविधान के बनने के बाद लोकतंत्र के बारे में अगर कोई वास्तविक खतरा पैदा हुआ तो उन 19 महीनों में हुआ। और यह खतरा टल गया। उस खतरे से ऊपर उभर कर आया। मुझे इस बात की खुशी है कि उस समय जो पार्टी पावर में थी, वह पार्टी प्रमुख विरोधी पार्टी बाद में आयी। और अगर वह चाहते तो संविधान में जितने परिवर्तन एमरजेंसी में हुए थे, उनको रद्द करना असंभव था, न रद्द किये जा सकते थे। संविधान के 42 वें संशोधन से संविधान में ऐसा संशोधन किया गया मैं मानता हूँ कि उसके कारण एमरजेंसी को कांस्टीट्यूशनल लेजिटिमेसी मिल गयी थी और अगर उस समय विरोधी दल जो एमरजेंसी के समय में सत्तादल में था, वह अगर विरोध करता तो उस 42वें संविधान संशोधन को निरस्त किया जा सकता था और 44वां

संशोधन पास नहीं हो सकता था और 44वां संशोधन पास करके 42 वें संशोधन को बहुतांश में निरस्त कर सकना इसलिए संभव हुआ कि कुल मिलाकर हिन्दुस्तान का जो राजनैतिक मानस है, उसने लोकतंत्र को स्वीकार किया हुआ है और उस राजनैतिक मानस को वह औपचारिक रूप से कहे या न कहे, क्योंकि एमरजेंसी का प्रयोग 1975 से 1977 तक हुआ था, उसको उचित नहीं माना। इस तथ्य को स्वीकार करता हूँ और सार्वजनिक रूप से उसमें जितने भी मैंने कानून पेश किये—प्रेस की आजादी के लिए—उन सब को सर्वसम्मति से समर्थन मिला था। यद्यपि उसके पहले कानून सर्वसम्मति से उसके खिलाफ पास हुआ था। तो यह एक प्रसन्नता की बात है।

मैं वित्तीय संसाधनों के आबंटन के बारे में इतना ही कहूंगा कि जब 1947, 1949-50 में संविधान सभा बैठी हुई थी और लिस्ट-1, लिस्ट-2, लिस्ट-3 बना रहे थे। सभी लोग जानते हैं कि लिस्ट-1 यूनियन की है, लिस्ट-2 स्टेट्स के लिए है और लिस्ट-3 कनकॉरेट लिस्ट है। इसमें किस को क्या क्या संसाधन दिये जायें, उसका बंटवारा किया-तो बंटवारा करते हुए राज्यों को जो संसाधन दिये, वे बहुत ही सीमित दिये। वे इलास्टिसिटी थे जबकि केन्द्र के पास साधन हैं, वे बहुत विराट और विशाल हैं। नतीजा यह हुआ कि राज्यों को अपने इन्फ्रास्ट्रक्चर खड़ा करने के लिए केन्द्र की ओर देखना पड़ता है। मुख्यमंत्री यहां आकर भिक्षा मांगते रहते हैं। प्लानिंग कमीशन के पास, वित्त मंत्री के पास और प्रधानमंत्री के पास वे भीख का कटोरा लेकर खड़े रहते हैं। लोकतंत्र के लिए यह कोई स्वस्थ स्थिति नहीं है। मैं मानता हूँ कि राष्ट्र की एकता के लिए यह स्वस्थ स्थिति नहीं है और इसलिए संविधान में आमूल-चूल परिवर्तन करने की आवश्यकता है। केन्द्र और राज्यों के बीच में जो संसाधनों का बंटवारा है, उस संदर्भ में यह करने की जरूरत है। अधिक से अधिक संसाधन राज्यों को दिये जाने चाहिए। यह ठीक है कि जो राज्य छोटे हैं, पिछड़े हुए हैं और जिनके पास अपने संसाधन पैदा करने के साधन नहीं हैं, उनको सहायता मिलनी है तो केन्द्र से मिलेगी। आज की परिस्थिति में इनमें व्यापक रूप से परिवर्तन करने की आवश्यकता है। उसी प्रकार से राजनैतिक क्षेत्र में, प्रशासन के क्षेत्र में राज्यों के पक्ष में डिवेल्युएशन चाहिये और राज्य में भी केवल राज्य की राजधानियों में नहीं है। अनुच्छेद-40 डायरेक्टिव प्रिंसीपल्स का एक हिस्सा है जिसमें पंचायतों पर चर्चा की गयी है, लोकल सैल्फ गवर्नमेंट पर चर्चा की गयी है। मैं मानता हूँ कि एकता की कमजोरी का कारण यह है कि हमने लोकतंत्र की धरती तक नहीं पहुंचाया है। लोकल सैल्फ गवर्नमेंट और पंचायतों के माध्यम से और उस मामले में अभी विधेयक आया हुआ है जिसपर एक प्रवर समिति बैठी हुई है, चर्चा कर रही है। मैं मानता हूँ कि जितनी मात्रा में लोकल सैल्फ गवर्नमेंट मजबूत होंगी, उसी मात्रा में एकता मजबूत होगी। A Commission on the Constitution could be created.

अब मैं समाप्ति पर आता हूँ। मैं इतना ही कहूंगा कि इस चर्चा में कल कुछ सुझाव दिये गये। मैं मानता हूँ कि अगर वे सुझाव स्वीकार किये जायें तो उससे भी देश की एकता मजबूत होगी। जब स्टेट रिआर्गनाइजेशन कमीशन बना तो उस समय स्टेट्स का पुनर्गठन करने के लिए कई कसौटियां थीं जिसमें प्रशासनिक सुविधा भी थी। वित्तीय वॉयब्लेटि भी थी लेकिन प्रमुख कसौटी थी—भाषा। आज मैं समझता हूँ कि ऐसा समय आया है कि एक बार पुनः देश के राजनैतिक नक्शे को खींचा जाय और राज्यों का फिर से पुनर्गठन किया जाये और एक दूसरा स्टेट आर्गनाइजेशन

कमीशन बनाया जाय जो विकास को प्रमुख कसौटी मानकर-यह जो देश का असंतुलित विकास हो रहा है—या बड़े बड़े राज्यों में अलग अलग बातों पर असंतुलित विकास हो रहा है—उसको देखे। उत्तर प्रदेश इतना बड़ा प्रदेश है। मैं कभी कभी कह सकता हूँ कि उत्तर प्रदेश एक प्रदेश न होकर देश होता तो दुनिया के देशों में उसका पांचवा या छठा नम्बर होता या रूस के बाद तो यह पांचवा हो जायेगा क्योंकि उसकी आबादी 14 करोड़ है। मध्यप्रदेश की व्यापकता इतनी बड़ी है और ऐसे अनेक राज्य हैं जिनको छोटे राज्यों में गठित किया जाये तो विकास अधिक त्वरित होगा और जितनी सारी परेशानियां हो रही हैं, वे कुछ कम होंगी।

कल राष्ट्रपति प्रणाली, संसदीय प्रणाली पर चर्चा हुई थी कि किस में अधिक लाभ होगा और किसमें हानि होगी? मैं मानता हूँ कि यह विचारणीय विषय है। मैं एक बार अपना मत व्यक्त करते हुए कहा था कि शायद देश का जो चीफ़ एकजीक्यूटिव है—उसके चुनाव में, निर्णय में सारे देश के करोड़ों लोग शामिल हों तो एकता की दृष्टि से उसका बहुत बड़ा योगदान होगा। हो सकता है इसमें कुछ समस्याएँ हों, लेकिन इस मामले पर किसी कन्कलूज़न पर पहुंचने की जल्दी नहीं होना चाहिये और अगर कभी इसपर विचार ही करना हो तो इन विषयों के बारे में संविधान का कमीशन बनाया जाये।

इन 42 सालों के अनुभव के आधार पर क्या क्या मौलिक परिवर्तन किये जा सकते हैं और उसमें जो यह संगोष्ठी आज हुई है, उसकी चर्चा, उसके विचार-विमर्श, यह बहुत महत्वपूर्ण हो सकता है लेकिन संविधान सभा के अध्यक्ष-डा० अम्बेडकर हों या डा० राजेन्द्र प्रसाद हों, उन्होंने अपने समारोह भाषण में लगभग एक बात की है कि हमने मेहनत की। हम उस दृष्टि से संविधान बना सकते हैं। बहुत लोगों की शिकायत थी, इसमें कमियां हैं लेकिन मोटे तौर पर हम समझते हैं कि संविधान अच्छा बना है। 26 नवम्बर, 1949 को संविधान सभा की बैठक हुई थी। जिस दिन इसको एडाए किया गया गया, पूरे प्रावधानों पर चर्चा करके उसको स्वीकार किया गया। उस दिन समारोह भाषण में डा० राजेन्द्र प्रसाद ने कहा:

“If the people who are elected are capable, and men of character and integrity, they would be able to make the best even of a defective Constitution. If they are lacking in these, the Constitution, cannot help the country. After all, the Constitution, like a machine, is a lifeless thing. It acquires life because of the men who control it and operate it and India needs today nothing more than a set of honest men who will have the interest of the country before them.”

मैं समझता हूँ कि हम इस प्रकार के सेमिनार्स में से चाहें तो सुझाव दें, रचनात्मक सुझाव दें और अच्छे रचनात्मक सुझाव अगर हम स्वीकार करते हैं तो निश्चित रूप से जिस-जिस उद्देश्य के लिए हमने जो दिये हैं, उसकी बढ़ोतरी होती है, जैसे मेरे जिम्मे यह रहा है कि मैं “संविधान और भारत की एकता” इस विषय पर चर्चा को आरम्भ करूँ तो मुझे स्वयं को लगता है कि जो आज का संविधान है, उसके कारण देश की एकता कमजोर नहीं हुई है। आज हमको खतरनाक खतरा दिखाई दे रहा है, कश्मीर में खतरा दिखाई दे रहा है पंजाब में, खतरा दिखाई दे रहा है, देश के अन्य भागों में टैरिज्म का, वायलेस का, सबवर्शन का, कम्युनल डिसहार्मोनी का, यह जितने सारे खतरे हैं, मैं नहीं मानता कि

इनका जड़े संविधान में हैं। संविधान, मोटे तौर पर हम जिसको कह सकते हैं, कि It has been reasonably well-designed.

लेकिन कमियां हैं तो हमने जिस प्रकार से उसको क्रियान्वित किया है या जिन जिनके जिम्मे कार्यान्वित करने का दायित्व है, उनका अपना आचरण उनका अपना चरित्र, उनकी अपनी प्रवृत्ति, उनका अपना स्वार्थ और वह स्वार्थ अगर राष्ट्र के स्वार्थ से ऊपर हो जाता है तो यह कठिनाइयां, अच्छे से अच्छा संविधान हम कर डालें तो भी उसके कारण कोई बहुत बड़ा परिवर्तन नहीं आयेगा, यह मेरी धारणा है। हमको यह मालूम नहीं कि परिवर्तन नहीं करना चाहिए, परिवर्तन जितना वांछनीय है, जिनके बारे में, खासकर आज जो स्थिति बनी है, मोटे तौर पर परिवर्तन वही सम्भव होगा, जिनके बारे में मोटे तौर पर एक कन्सेप्स का निर्माण होता है अन्यथा परिवर्तन करना भी सम्भव नहीं होगा। मैं समझता हूँ कि डा० राजेन्द्र बाबू के इन बहुत गहन गम्भीर विचारों को पूरी तरह से ध्यान में रखने से ही हम राष्ट्र की एकता को मजबूत करने में अपना योगदान कर सकेगे।

मैं बहुत-बहुत आभार प्रकट करना चाहता हूँ, इण्डियन पार्लियामेण्टरी ग्रुप और डा० बी० आर० अम्बेडकर बर्थ सैण्टीनरी सलीब्रेशंस का, जिसके कि अध्यक्ष स्वयं श्री बूटा सिंह जी हैं और ब्यूरो आफ पार्लियामेण्टरी स्टडीज एण्ड ट्रेनिंग का, जिन्होंने इस संगोष्ठी का आयोजन किया और मुझे इस सत्र की चर्चा को आरम्भ करने का निमंत्रण दिया। बहुत-बहुत धन्यवाद।

सभापति महोदय : परम आदरणीय लाल कृष्ण आडवाणी जी का हम आभार व्यक्त करते हैं, जिन्होंने आज इस संगोष्ठी में प्रारम्भिक भाषण देते हुए नये-नये विचार राष्ट्र के सामने पेश किये हैं और इन विचारों से हमें एक नया विश्लेषण और सोचने के लिए एक नया क्षेत्र खुल जाता है। मुझे पूर्ण विश्वास है कि जिस भावना से इस संगोष्ठी में विचार आ रहे हैं, राजनैतिक दलों के नेतागण और हमारे देश के बड़े-बड़े कांस्टीट्यूशनल एक्सपर्ट्स और हमारे जनजीवन के अग्रणी नेता हमारे इन सुझावों को उसी भावना से लेने, जैसा आडवाणी जी ने अन्त में कहा, आज देश की परिस्थिति यह है कि यदि हम किसी प्रकार का परिवर्तन करना भी चाहें तो सम्भव नहीं है। मैं तो स्वयं ही श्री आडवाणी जी से इस बात के लिए कुछ मार्गदर्शन चाहता था कि कल और आज की संगोष्ठी में बुनियादी परिवर्तनों की ओर संकेत किये गये, उसके लिए क्या सुविधा होनी चाहिए, कैसा मंच होना चाहिए। आज की हमारी जो संसद है, वह सक्षम है कि इस प्रकार के परिवर्तनों को निभाने का दायित्व और दूसरे जिस प्रकार से आज हमारे देश की शान्ति व्यवस्था की हालत है, उस बारे में यदि हम नया चरण उठायें, इस जैसे महत्वपूर्ण मुद्दे पर तो क्या हमारा समाज, हमारा देश, हमारा वातावरण इसको सहन कर सकते हैं? यह कुछ ऐसे प्रश्न हैं जिनको हमें अपने मस्तिष्क में रखना होगा। मैं पुनः यहां पर एकत्रित विशेषज्ञ और अनुभवी हमारे नेता, न्यायाधीश और हमारे विधान मण्डलों के अध्यक्षों की ओर से श्री लाल कृष्ण आडवाणी जी का आभार व्यक्त करता हूँ और आप सबसे मैं नम्र निवेदन करता हूँ कि अब हम चाय के लिए थोड़ी देर के लिए बाहर जायेंगे, उसके बाद हम इस संगोष्ठी को इसी तरह जारी

रखेंगे। आडवाणी जी से मैं प्रार्थना करूंगा कि हमें वे अपना थोड़ा समय और दें। धन्यवाद।

(तत्पश्चात् संगोष्ठी की कार्यवाही स्थगित की गई)

(After Tea Break)

Mr. Chairman: Friends, we now start the discussion on the subject which has been introduced to the Seminar by Shri Lal K. Advani. May I now request Shri A.K. Sen, the former Union Minister and a great authority on the Constitution of India, to kindly give his address to this Seminar?

Shri A.K. Sen, Former Union Law Minister: Thank you Sir. I am extremely honoured to be called upon to give my humble view on the most important subject, which you have chosen for discussion today. In fact there could not have been a more appropriate subject to discuss today than this.

So far as the Constitution of India is concerned, it laid down the foundation for an integrated India. The forces of disruption and division have raised their ugly faces today. They are not due to any provision of the Constitution but they are all aimed at subverting the Constitution. Our founding fathers conceived this country as a Union of different States with one Central Government, with one Parliament in charge of central subjects, with one Army, with one system of laws, with one unified judiciary. Though the State judiciary is administratively independent of the Supreme Court, yet an essential bond of unity is to be found throughout the structure built by the Constitution, not merely of the judiciary but also of the rest of our constitutional fabric and administration.

I am extremely impressed with the opening address of Advaniji. I told him that it is for the first time I have heard him speaking in Hindi on a serious subject. And it was wonderful. I thought that he was possibly a constitutional lawyer at one time. I think he was. But what is important, Sir, is that he has highlighted the roots of our national unity, which dates back not to the British rule but to the very inception of Indian nationhood, culturally and spiritually, which according to our Sanskrit writers stretched from the Himalayas to the seas. He said very rightly that throughout our history, we never thought that our spiritual and cultural heritage have to be rooted provincially or State-wise. He quoted the example of the great Sankaracharya building his temples in Badri, Kedar, Amarnath and all over the country. I do not know how many he built in Kerala. But he certainly built much more and many more outside Kerala. The same thing is true with our great

national leaders. The oldest and finest bond of India is its cultural and spiritual unity. Politically we have been divided all throughout history. And that was the main cause of our loss of freedom repeatedly and our bondage during the past centuries. Throughout the ages, invaders came and overran us. But they only destroyed our political freedom. They could not conquer and eradicate our great spiritual bond, which has been forged not merely by history but by the heritage of a common legacy. I once in Parliament when I moved on the 16th Constitutional Amendment providing for the Oath to be taken by every Member of Parliament and the Legislature in the Third Schedule, which bound him to observe the integrity and sovereignty of India, a response to doubts expressed about our unity, that through the entire web of Indian history, in spite of the convulsions and invasions which have overrun us, one golden thread is to be seen and that is the thread of Indianhood. Spiritually and culturally it was forged not merely by one community or one religion but by a common endeavour to create a common pool, our common heritage was built up through the centuries by different streams of thought and culture. This great common heritage was described by Tagore as Bharat Tirtha. He said that throughout the ages, streams of foreigners had come into this country, the Aryans, the Huns, the Sakas, the Mughals and others. But they have all merged into this great sea of humanity called 'Bharat Tirtha'. They have retained their distinctness but yet the common amalgam has assimilated all of them. Now this was the spirit which inspired the founding fathers to forge our Constitution and its different provisions. They point to one end, unity. There are no different peoples. State-wise or region-wise. There are no different citizens but one Indian citizen. There is no Hindu citizen or Muslim citizen or women citizen or male citizen. Everyone is the same and they cannot be discriminated against culturally, linguistically or otherwise so long as they subscribe their loyalty to the common pool of Indianhood. It is not necessary to refer to the different Articles. They are not dry but poignant with thought and life. But the vitality of these Articles had been sought to be sapped in recent times by the divisive forces. Well, this is not for the first time that it has happened in a country. This has happened elsewhere when the Scottish were fighting the British, but ultimately, they got united. When the South was fighting the North in America a great Civil war had to be waged in order to underline and cement the foundation of an indestructible federation or union. We do not have a civil war. But we have

skirmishes here and there, which have not only disturbed us but the rest of the world also. The rest of the world have started thinking whether our indestructibility was a myth or not. I remember, this country in the olden days, was reputed to be the most stable of all the developing nations though based on democracy. This is the largest democracy with a huge population governed by a free electoral system producing governments every five years in the States and in the Centre through a free elections. We are governed by a set of fundamental rights, which is enforceable by an independent judiciary. And yet today when we go outside, we watch this great gloom, that people all around have started doubting the stability of our country. After the Soviet Union was dismembered, a foreign scholar who had come here only the other day asked me a question — 'are you also going to dismember like this?' I said: "We were dismembered when the British came; we were dismembered when the Mughals came, we were dismembered when various invaders came. But after we have consolidated ourselves and we are not going to be dismembered again." Our bulwark is the Constitution, which has founded an indestructible nation. And whoever works for destruction will have to fight against the combined will of our people. The Constitution reflects the national determination.

Take for instance the Oath that is taken by every Member of the State Legislatures and every Member of Parliament when he stands for election. In the Third Schedule, it is there. This is the most crucial constitutional mandate of the matter.

I will just read out for your information the Third Schedule. We have taken this Oath every time when an election is held. We take the Oath to observe the integrity, infallibility and the sovereignty of India. We take that Oath again and again. When we take our seat in the Parliament or in the State Legislatures, we must take that Oath. Every judge takes the same Oath. Every Minister takes the Oath, whether he is a State Minister or a Central Minister. He must be a Member of the State Legislature or a Member of Parliament to subscribe to the same Oath, before he takes his seat. As I have said it runs like a Golden Thread through the entire structure of our Constitution. We are resolved that we shall never again lose our freedom as we have done so many times in the past. This Union of our country is built on the supreme faith of the people of India. This resolve is embodied in the Preamble of our Constitution which declares that our country will be sovereign, social, secular,

democratic republic to secure to all the citizens justice, equality, fraternity and unity.

Therefore, Sir, so far as the Constitution is concerned, there is hardly any need to think of any amendment. As it is, it is a strong Constitution. It gives a federal Constitution with a strong Centre and a viable State structure. What we have now to think of is how to meet the fissiparous and divisive forces which have been raising their fang all over the country in recent times either in the name of language or in the name of religion or in the name of regionalism or in the name of something else? This has to be fought truly and resolutely cannot be done by merely devising further provisions in the Constitution. We must produce people with intellect, honesty, integrity and leadership which can fight these forces and mobilise the people as a solid front against all forces of disruption.

Thank you very much.

Shri Badr-Ud-Din Tyabji: Mr. Chairman, Mr. Advani and ladies and gentlemen. I must first confess that I was not going to come this morning because the subject was not one which really I thought was open for debate. But, when I saw that Mr. L.K. Advani was going to speak, I felt that perhaps an occasion may arise in which I myself have to offer my own views on the subject, that is the duty, which I have to perform. I am agreeably surprised with Mr. Advani's speech. It is one which I accept wholly.

His insistence that the Constitution is a fair one, workable one and the fault lies in the working of it is one which I entirely share. Mr. Advani is a great phrase maker and that is what I would like about him. I would like particularly this phrase and that is pseudo-secularism which I apply to myself very correctly. I used to examine myself, am I a pseudo-secular or what am I? But, I was hoping that this morning, he would dilate on this theme and define his conception of what a secular should be like. I am afraid that in this, I have been disappointed. I wish to say that we are all pseudo-secular.

I am glad that Mr. L.K. Advani has endorsed the secular Constitution of India. In my opinion only when the Constitution is not worked properly, that 'pseudo-secularism' results. Here, we are discussing about the working of the Constitution and how it should work. He should clarify in what way it could be made more effectively secular; and as he agrees with the Constitution how we should ensure that secularism prevails in the operation of the affairs of the nation. Anyway, this is just a diversion.

But I would like to bring forward one aberration here which I think was illustrated in Mr. Advani's speech. The way it was introduced, he himself apologising for not circulating the Hindi version of his English speech and then, speaking in Hindi which was very fluent. And I would like to ask one thing. Why we are so hesitant about speaking in the language which we know best and can express our thoughts most succinctly? Mr. Advani, I think, can express his political thoughts best in English and there should have been no apology for doing it at all. I felt aggrieved when I found that he was really pondering to these make beliefs, when he tried to interpret the Constitution in officialise Hindi.

Take the provisions in the Constitution concerning the national language. Is the language which is spoken now, is propagated by the State authority, the language as has been defined and envisioned in the Constitution? I think, it is not.

The National language should be a developed Hindustani, with all its advantages of wide-spread usage which are there. He should be encouraged and propagated; instead of that, we are trying to create a new hybrid language which only the Hindi elite can understand. I feel that a Party like the BJP should contribute something for building up India not only in a territorial or political sense but culturally and emotionally as well. It is not going to be very easy. We all want unity. But how is this going to be achieved when the hearts of the people are not united, and if the inner sentiments of vast numbers of them are outraged? I think, Mr. Advani himself spoke about it. I should like very much to endorse this. Serious thoughts should be given to it here. We have to get this diverse peoples and country together. We already have a sound basis on which there is consensus and agreement viz. the Constitution. But it can be done only on the basis of an equitable participation and representation of all the elements which form the Indian Nation and its civilisation in the governance of the country.

Mr. Buta Singh, I do not want to take any more time of your and I conclude.

Thank you.

Mr. Justice H.R. Khanna (Retired): Thank you Mr. Chairman. I deem it a great privilege to have been afforded this opportunity of speaking on this subject of national integration more so when we have heard very illuminating speech made by Shri L.K. Advani. At the time the Constitution was framed,

our founding fathers were conscious of the fact that India is a land wherein there is confluence of different religions, synthesis of different languages, mosaic of different ethnic groups. Keeping in view that fact, they went in for a secular polity.

The word 'secular' was not used in the Constitution as such at the time when it was framed. But there can be no manner of doubt that they actually wanted a secular State. People sometimes come under the notion that there is some kind of a conflict between secularism and religion. This is wholly a misconceived notion. Religion operates on a spiritual plane; it has something to do with one's belief and faith. Secularism operates on a temporal plane. It postulates that no one shall be discriminated against because he belongs to one particular religion or ethnic group, a linguistic group. Personally I feel that religion in India has been more sinned against than sinning. I personally believe that more a person is a devout Hindu or a devout Muslim or a devout Sikh or a devout Christian, the greater should be his allegiance to the country because there is no antithesis between the two. I also believe that despite variances in the externals and rituals of the different religions, there runs through all the religions. The universal, the essential message of ennobling your personality, of elevating your thought and of service of mankind, brotherhood and love of fellow beings.

Some people might subscribe to the view that if you want to understand one religion you must study all religions. I personally think that the greater truth is that if you understand one religion you would understand all religions. We have also to keep in view the fact that in India the basic fount of our culture and heritage have been the Upanishads and the Vedas. They constitute a source of inspiration and have a universal message. There is nothing parochial or narrow minded about them. May I in this context refer to the words of SCHOPENHAUER which he said upon reading translation of the Upanishad in French Language after somebody had translated the same in French from English translation; he said, "there is no study in the entire world which is so ennobling and so elevating as that of the Upanishads. They have the solace of my life; they shall be the solace of my death."

The heritage and culture of India during the course of millennia and centuries has been enriched by the thoughts of Sufi saints, by Guru Nanak, by Kabir, by Christian Missionaries and a number of other greater Thinkers and Philosophers. They have all added to the

richness of our heritage and culture; and the fact that you actually feel proud of all that should not detract from the fact that you are a secular person.

Mr. Advani referred to the misuse of some provisions of the Constitution. Undoubtedly, there has been such misuse. The underlying assumption of the success of every Constitution is that those who are called upon to work the Constitution, they must share the faith and allegiance to values which actually inspired the drafting of those Constitutions. Today, we find that while there may be some kind of verbal faith in the provisions of the Constitution, our allegiance on the practical plane to the values enshrined behind those provisions is wholly lacking; there has been a complete erosion of that. The success of the Constitution in the long run depends upon the way it is actually worked.

The Japanese Constitution was given to the Japanese people by Gen. MACARTHUR; but it has worked so well. The USA Constitution framed more than 200 years was drafted for just 13 agricultural States; but they worked it so well that it has stood the test of time and responded to the needs of the most industrialised nation of the world. As against that, as I mentioned yesterday, there has been a very liberal Constitution which has been wrecked by the people who have actually been called upon to work it. I gave the instance of the weimar Constitution framed in Germany after the end of the First World War. During the first 14 years from 1918 to 1932, there were as many as 21 coalitions and people got disillusioned; and that gave rise to Hitler; and we know what actually happened thereafter.

Mr. Advani has referred to the state of judiciary. He has also referred to the fact that we have one integrated judicial system in the country. At the time the Constitution was actually framed Mr. K.M. Munshi, in his speech, said that the fact that we have one well integrated judiciary in the country would operate in a subtle manner in providing a unifying force. Undoubtedly, there has been a fall in the standard of judiciary. At a time, when there has been a fall in values in all other spheres, you cannot expect the judiciary to stay in a stratosphere of isolation of saints and perfect people. But, at the same time, I believe that in the very nature of things, in the very nature of the functioning of the judiciary, it is most imperative that the judges should actually reflect an image of the highest integrity. Judiciary has neither the power of the purse nor that of the sword; its greatest asset is the faith and confidence of the people. Once that faith and confidence get eroded,

the judiciary's image is bound to suffer. I must confess before all of you that somehow or the other, things have been happening on the judiciary front, which make many of us very uneasy at heart.

Shri Lal K. Advani also referred to the creation of linguistic States. At the time when a demand was actually made for linguistic States a gentleman gave his life in Andhra to have a separate State for Andhra on the basis of language. Then Pandit Jawaharlal Nehru and Sardar Vallabhbhai Patel felt that they should not give in to the demand for linguistic States, but somehow or other they were actually confronted with the resolution of the Constitution where the Congress had actually subscribed to the view that we should reorganise our provinces on linguistic lines. Despite that awareness, they were against it. But Shri Sitaramaiah who was a Member of that Committee, induced them to give in.

Once we had that thing it set in a chain reaction. Many people believed that the creation of linguistic States was an unhealthy trend. as it is, you cannot undo the history; you have to accept it. But you have to ensure that even though we take full pride in the language of our region, in the greatness of our religion, in the culture of a particular ethnic group, these identities do not engulf the paramount national identity, the identity of being an Indian. That is the paramount identity which must be kept above every thing.

Shri Lal K. Advani also referred to the financial powers of the States. It is unfortunately correct that the States are lacking in vital financial powers. At the time the Constitution was framed, the Members of the Constituent Assembly — those who were actually entrusted with the drafting of those provisions — were conscious of the fact that they were trying to create something which would not provide for financial viability of the States. But they thought that by having a Finance Commission, they should be able to set right any imbalance brought out because of that thing.

Another difficulty that actually arose at that time was that Bombay and Bengal said that so far as the income-tax receipts were concerned, they should have it in accordance with the income derived from that source in the particular States. It was found that if they adhered to that formula Bombay and Bengal would have about 63 per cent of the yield from the income-tax. This was obviously something which could not be accepted.

The other thing was that somehow or other there were differences between the States themselves as to what should be the formula and therefore they

thought that we should actually have the Finance Commission. Unfortunately, the position that has actually emerged that after the Finance Commission we have had the Planning Commission. The grants given by the Finance Commission are statutory grants. The States are entitled to those grants as a right. They do not depend upon the bounty of the Centre. Compared to the statutory grants the money at the disposal of the Planning Commission is many times more. This brings in element of discretionary grant and it is there that the States, have to come with a kind of begging bowl at the door of the Centre, which is not a healthy sign.

I fully agree and endorse the suggestion of Shri Lal K. Advani that the states should have more financial powers. We do need a very strong Centre. Indeed, India's history shows that whenever the Centre had become weak it had always led to the disintegration of the country. But we also need strong states. It is a mistake to suppose that a strong Centre cannot operate with strong States. We have to ensure that the States are equally strong.

At the same time, we have also to ensure that there is devolution of more administrative power to the States and the States have also in turn to ensure that they give more powers to the local bodies. Somehow or other if the Centre has been tardy in devolution of power to the States, the States too have been reluctant and hesitant in granting powers to the local bodies. I think the power has to devolve down to the village level, to the Panchayat level and the local bodies. That is most essential.

Sir, Shri Lal K. Advani referred to the misuse of Article 356. It has been mentioned that this Article has been used on 79 occasions. If you go into the history of the use of this Article we will find that during the first 15 years this Article was used most sparingly. During the next ten years the use of this Article occurred a little. But subsequently, after 1975 the use of this Article has increased many times more. Obviously there has been something wrong in the use of this Article.

I have nothing to add more. Thank you.

Mr. Chairman (Shri S. Buta Singh): Thank you very much, Mr. Justice Khanna. I now request the hon. Speaker of Bihar, Shri Ghulam Serwar to address the Seminar.

श्री गुलाम सरवर, अध्यक्ष, बिहार विधान सभा: हमारा देश इस एतबार से संसार का एक अकेला देश है जहां धर्म, भाषा, क्षेत्र, नस्ल और सम्प्रदाय की रंगा रंगी है। जनसंख्या के एतबार से मात्र चीन की जनसंख्या हिन्दुस्तान से ज्यादा है। सबसे ज्यादा जनसंख्या वाला प्रदेश उत्तर प्रदेश

दुनिया का छठा देश कहा जाता है। केवल पांच देशों की जनसंख्या उत्तर प्रदेश से ज्यादा है। कौमी व मुल्की भाषाओं की संख्या पन्द्रह है जिनका संवैधानिक मोकाम है। पुराने और नये हर धर्म के लोग यहां बसते हैं। अनेकता में एकता की ऐसी मिसाल इस धरती पर नहीं मिलती।

अंग्रेजों की गुलामी के दौर में कश्मीर की वादी से लेकर आसाम की घाटी तक और हिमालय की गोदी से कन्याकुमारी तक करोड़ों लोग चाहे वे किसी भी धर्म से सम्बन्ध रखते हों या कोई भाषा बोलते हों या किसी सम्प्रदाय और समुदाय या किसी वर्ग से सम्बन्ध रखते हों, अपनी धरती की आजादी के लिए सरफरोशी की तमन्ना लिये सर पर कफन बांध कर सर को हथेलियों पर लिए यही गुणगुणाते रहे।

सरफरोशी की तमन्ना अब हमारे दिल में है।
देखना है जोर कितना बाजुए कातिल में है।

और वह दिन आ ही गया जब आजादी की देवी मुसकराई, इनकलाब की पौ फूटी और आजाद हिन्दुस्तान के सूर्य का उदय हुआ। आजादी के बाद सबसे पहला काम हमारे सामने था आजाद देश का विधान तैयार करना और विधायिका के सैकड़ों सदस्य मिलजुल कर एकजुट होकर संविधान की तैयारी में लग गये। इस काम में दो वर्ष से ज्यादा समय लग गया और संविधान 26 जनवरी, 1950 को जारी और लागू हुआ। हमारा देश धर्मनिरपेक्ष, समाजवादी, प्रजातांत्रिक, गणतंत्र करार पाया और जाहिर है कि जब संविधान बनाने में देश का बेहतरीन दिमाग दो वर्षों तक लगा रहा और इनमें जंगे आजादी के चोटी के नेता पेशा-पेश थे तो भारतीय गणतंत्र के संविधान में सबसे अहम् और मरकजी मुकाम, कौमी एकता को हासिल है।

अनेकता में एकता की हम आहंग का इतना हसीन मिलन कहीं और देखने को नहीं मिलेगा।

कौमी एकता की अहमतरिन और सबसे बड़ी मिसाल संविधान के अनुच्छेद 2 की पहली धारा है जो नागरिकता से संबंधित है। कोई भेदभाव नहीं बल्कि धारा 5 स्पष्ट साफ-साफ और सीधे शब्दों में कहती है कि संविधान के लागू के समय हर वह व्यक्ति जो इस देश की सीमाओं के अन्दर रहता है और जो यहीं पैदा हुआ था, जिसके पिता और माता या उनमें से कोई देश की धरती पर जन्मा था या फिर संविधान के लागू किये जाने से ठीक पहले कम से कम पांच वर्षों तक देश की सीमाओं के अन्दर मामूली तौर से निवासी रहा, वह भारत का नागरिक होगा। तीसरे अनुच्छेद में इसकी पुष्टि कर दी गई है कि कानून की नजर में हर नागरिक बराबर है। इनके अधिकार भी बराबर हैं। मूल अधिकार के इस अनुच्छेद में धारा 14 ने इसे स्पष्ट कर दिया है और धारा 15 में और स्पष्ट करते हुए कहा गया है कि किसी नागरिक के विरुद्ध धर्म, नस्ल, जिन्स और जन्म स्थान की बुनियाद पर कोई भेदभाव नहीं रखा जायेगा। सभी को बगैर भेदभाव के समान अवसर प्राप्त होगा। इस तरह हम देखते हैं कि हमारे संविधान के हर अनुच्छेद में चाहे वह नागरिकता का मामला हो या मूल अधिकार का सवाल हो, कौमी एकता के मकसदे अजीम को पेश नजर रखा है। बर्तानवी पार्लियामेंट को संसदीय गणतंत्र की खाला अम्मा कहा जाता है। इस संसदी प्रजातंत्र को पांच सदियां गुजर गई मगर अब भी राज्य का धर्म ईसाइत है और ईसाइत में भी कैथोलिक क्रिश्चियन को स्टेट रिलीजन करार

दिया है। इस एतबार से धर्म निरपेक्ष भारतीय संविधान की वह बुनियादी ईंट है जो राष्ट्रीय एकता की भट्ठी में तप कर तैयार हुई है। इसे सर्व धर्म समन्वय कह लो या सर्व धर्म सम्भाव कहा जाये। यह अधर्मी या लादिनियत नहीं है। स्टेट की नजर में सब धर्म बराबर हैं और स्टेट का कोई धर्म नहीं है। मंदिर, मस्जिद, गिरजा, गुरुद्वारा लाखों की संख्या में और देश के हर भाग में आसमान से बातें करते नजर आते हैं। उर्दू के विश्वविख्यात शायर अलामा इकबाल ने एक सपना देखा था।

आ एक नया शिवाला इस देश में बना दें।

दामने आसमां से इसका कलश मिला दें।।

हमारे संविधान ने भी कौमी एकता की मंजिल को पाने के लिए अपनी संवैधानिक धाराओं में एक सपना देखा है इसे साकार करना हर देशवासी का कर्तव्य बनता है और अरुणाचल के सबजाजारों से लेकर कच्छ के रेगजारों तक और सिक्किम के लालाजारों से लेकर तिरुपति के मर्गजारों तक हर नागरिक भारतवासी है और हमारे संविधान की 395 धारयें और 10 अनुसूचियां मजमुई हैसियत से यही तासीर देती हैं कि हम एक हैं। आवाज दो हम एक हैं। पंजाब, सिंध, गुजरात, मराठा, द्रविड़, उत्कल, बंग, विंध्याचल, हिमालय, वादिये गंगो जमन सब एक हैं। एक हिन्दुस्तानी कौम, एक तिरंगा झंडा एक देश। संविधान के तीसरे अनुच्छेद में मौलिक अधिकारों का वर्णन धारा 12 से धारा 35 तक है और इनमें धारा 25, 26, 27, 28, 29 और 30 खासतौर से आत्मा की आजादी, अक्रीदा वो मसलकी की आजादी, धर्म के प्रचार और प्रसार और उस पर अमल करने की आजादी की जमानतें हैं। यहां तक कि अल्पसंख्यकों के सांस्कृतिक और शैक्षणिक अधिकार की जमानत भी दी गई है और इसमें सभी भाषा, भाषायी एवम धार्मिक अल्पसंख्यकों को अपने शैक्षणिक संस्थान कायम करने और इसका प्रबंध करने का अधिकार ही नहीं दिया गया, बल्कि यह भी स्पष्ट कर दिया गया कि प्रशासन सिर्फ इस बुनियाद पर सरकारी और वित्तीय अनुदान में कोई भेदभाव नहीं रखेगा कि कोई अल्पसंख्यक है। इन धाराओं ने पूरे देश की सभी अल्पसंख्यक आबादी को संवैधानिक सुरक्षा की छतरी दे दी है।

हमारे संविधान का सोलहवां अनुच्छेद पूरे का पूरा हरिजनों, आदिवासियों, ऐंम्लो इंडियन कम्युनिटी के साथ-साथ अनुसूचित क्षेत्रों के प्रशासन और अनुसूचित जन जातियों के विकास यहां तक कि पिछड़ी जातियों के सम्बन्ध में है। मकसद सिर्फ एक है और वह यह कि कोई मजहब, कोई धर्म, कोई भाषा, कोई जात, कोई वर्ग, कोई हलका संवैधानिक सुरक्षा और अधिकार की जमानतों से वंचित न रह जाये। कौमी एकता के पेशे नजर संविधान में इतना स्पष्ट और तफसील के साथ मौजूद नहीं है। 16वें अनुच्छेद का शीर्षक सरकारी भाषायें हैं। इसके तीन भाग हैं। प्रथम संघ की राज्य भाषा, द्वितीय प्रादेशिक भाषायें। तृतीय न्यायालयों की भाषा और चौथा विशेष निदेश। यहां फिर अनुच्छेद 347 में इसका स्पष्टीकरण मौजूद है कि किसी प्रदेश में अगर कुछ खास जनसंख्या यह चाहती है कि इसकी बोली जाने वाली भाषा को राज्य के द्वारा तसलीम किया जाये तो राष्ट्रपति फरमान जारी कर सकते हैं कि इस भाषा को पूरे प्रदेश या इसके किसी भाग के लिए तमाम या मखसूस मकासिद के लिए प्रयोग किये जाने की मंजूरी दी जाये। धारा 350 के तहत देश या प्रदेश में प्रयोग की जाने वाली किसी भी भाषा में कोई भी व्यक्ति किसी भी

पदाधिकारी या सत्ता पक्ष की खिदमत में अपनी अर्जी गुजार सकता है। धारा 350ए के मुताबिक मातृभाषा में प्रारम्भिक शिक्षा की सहूलियत का उल्लेख है। 350ब में राष्ट्रपति को यह अधिकार है कि वे भाषा भाषाई अल्पसंख्यकों के लिए विशेष पदाधिकारी नियुक्त करे। धारा 351 में देश की राज भाषा हिन्दी के लिए राज्यादेश है कि संघ का यह कर्तव्य होगा कि वह हिन्दी भाषा का प्रसार विकास करे जिससे वह भारत के सामाजिक, सांस्कृतिक के सभी तत्वों की अभिव्यक्ति का माध्यम बन सके और —प्राकृति—में हस्तक्षेप किये बिना हिन्दुस्तानी में आठवें अनुच्छेद में प्रविष्ट देश की दूसरी भाषाओं के रूप, शैली, शब्दकोष से खास करके संस्कृत और आमतौर से दूसरी भाषाओं के शब्दों के प्रयोग से इसे मालामाल करे। संविधान का 21 अनुच्छेद एक एतबार से आखिरी अनुच्छेद है। क्षेत्रिय संमतुलन बनाये रखे जाने से सम्बन्ध रखता है। इसमें धारा 370 है। जिसका उल्लेख बार-बार किया जाता रहा है। यह जम्मू काश्मीर को विशेष सुविधा दिये जाने के संबंध में अस्थायी उपबन्ध है। यह सत्य है कि जब जम्मू काश्मीर प्रदेश का विलय इंडियन यूनियन में हुआ था तो दोनों के साथ एक संधि हुई थी। एक्सेशन की इसी संधि के तहत धारा 370 संविधान में रखी गई। किसी भी बड़ी कौम और प्रजातांत्रिक और संवैधानिक देश के लिए अपने द्वारा किये गये संधियों का एहतराम जरूरी है वरना राजनीति की विश्व मंडी में इसका भाव गिर जायेगा। यह बात तो शायद भारत के हर नागरिक को मालूम है कि काश्मीर को विशेष दर्जा प्राप्त है, मगर शायद कम ही लोगों को मालूम होगा कि महाराष्ट्र और गुजरात के लिए विशेष गुंजाइश धारा 371 और फिर नागालैंड के लिए धारा 371ए, असम के लिए 371बी, मणिपुर के लिए 371सी, आंध्र प्रदेश के लिए 371डी, और फिर आंध्र प्रदेश में एक केन्द्रीय विश्वविद्यालय के लिए अलग से उल्लेख अनुच्छेद की धारा 371ई में मौजूद है। यहीं पर बस नहीं हो जाता। 371एफ सिक्किम के लिए विशेष उपबंध का मौका निकालता है और 371जी मिजोरम के लिए, 371एच अरुणाचल प्रदेश के लिए, और धारा 371आई गोवा के लिए विशेष अवसर प्रदान करती है। मालूम हुआ कि उत्तर पश्चिम और उत्तर पूर्वी प्रदेशों को जहां अल्पसंख्यक समुदाय बहुसंख्यक हैं और आंध्र प्रदेश के लिए जो पुराने राज्य हैदराबाद के विलय के बाद बना और सिक्किम, गोवा और अरुणाचल प्रदेश जो अंत में इंडियन यूनियन के राज्य बने, सभी को देश के दूसरे भागों के साथ एक करने और इंटेग्रेट करने की ओर संवैधानिक और दस्तूरी अमल है। जहां तक शिड्यूल्स और एपेंडिसेस का संबंध है इसमें भी अनुच्छेद 8 में देश की भाषाओं का नाम है। इसमें आसामी, बंगाली, गुजराती, हिन्दी, कन्नड़, काश्मीरी, मलयालम, मराठी, उड़िया, पंजाबी, संस्कृत, सिंधी, तमिल, तेलुगू और उर्दू 15 भाषाओं का उल्लेख है।

बस तहकीक के सवाल धर्म का हो या भाषा का, क्षेत्र का हो या जाति का, शिक्षा का हो या अधिकार का, भारतीय संविधान ने इंसाफ के तराजू पर सबों को बराबर तौल दिया है। इसके बटखरे सभी नागरिकों के लिए एक हैं। इसके पैमाने हरेक के लिए बराबर हैं। हमारे संविधान ने राष्ट्रीय एकता का जो नमूना पेश किया वह अपनी मिसाल आप है। ये बहस तो की जा सकती है कि वह इन जमानतों और अधिकारों को अब तक पूरे तौर पर अमलीजामा नहीं पहनाया जा सका है। मगर यह सवाल नहीं उठाया जा सकता है कि किसी के साथ विधान ने न्याय नहीं किया है। यह

सभी आप यह कह सकते हैं कि यह सभी संवैधानिक सुरक्षायें और अधिकार मैकेनिकल मिक्सचर हैं इन्हें कैमिकल कम्पाउंड बनाना जरूरी है। मगर यह काम न तो विधान वालों का था और न संविधान की धाराओं या न्यायालयों या विधान मंडल का, बल्कि यह काम हमारा और आपका है। राजनैतिक दलों का है, सरकारों का है, नेताओं का है। पहल हो रही है। शायद ख़ाब की ताबीर में अभी आधी सदी लग जाये तब शायद हममें से कोई जिन्दा न रहेगा मगर हमारा संविधान बाकी रहेगा। हमारा देश बरकरार रहेगा और कौमी एकता का जज्बा ही नहीं, अमली तस्वीर झलकने लगेगी।

Shri R.M. Jamatia, Deputy Speaker, Tripura :^{*} It is a matter of great pleasure and satisfaction that the Centenary Year of late B.R. Ambedkar is being observed throughout the length and breadth of the country and deep homage is being paid to his memory for the great role he played at the time of framing of our Constitution. In this context, one must also remember with deep respect the valuable contribution he made towards our national integrity in course of the debates in the Constituent Assembly. Thus, in course of debates on the Fundamental Rights, he demanded that proper emphasis must be laid on the economic rights of the people. He pointed out the constitutional experts think that it was enough to include the fundamental rights in the Constitution and that nothing else was necessary; they termed non-interference of State in economic and social fields as liberty. But "this liberty is liberty to the landlords to increase rates, for capitalists to increase hours of work and reduce rate of wages....In other words, what is called liberty from the control of the state is another name for the dictatorship of private employer", he viewed. He argued in favour of introduction of Parliamentary Democracy mingled with state socialism; as that path alone could achieve triple objective namely, to set up socialism, to retain Parliamentary democracy and to avoid dictatorship, he added. Dr. Ambedkar also pointed out that though the right to equality had been accepted in political sphere, the principle of equality on social and economic spheres had not been recognised. That contradiction should be removed as soon as possible, he added. He also viewed that people were averse to old democratic system.

The above mentioned view point of Dr. Ambedkar is quite relevant in the context of the present state of India's national integration. Every patriotic Indian is deeply anxious to see that, despite all efforts of the Central and State Governments to keep India united, integrated and strong, some extremists, divisive and

separatist elements have been continuing their subversive activities to destabilise our beloved land at the instigation and financial and armed assistance from forces across the border. The subversive activities of the extremists have been concentrated mainly in three states now, namely Kashmir, Punjab and Assam.

In Kashmir, a large section of the minority community have to leave their hearth and home for fear of JKLF terrorists. Attacks are continuing on the patriotic section of the majority community also. We think that the problem cannot be solved only militarily. Democratic process should be started and appropriate steps should be taken for bringing back confidence among the people and attract them to the mainstream so that the terrorists can be completely isolated. At the same time, a clear and emphatic 'NS' should be uttered to those who are demanding annulment of Article 370 of the constitution which provides for separate constitution for Jammu & Kashmir, its own elected administrators, its own judiciary, its own public service commission etc. for otherwise the Kashmir problem will further aggravate. Again, we shall fail in performing our duties if we do not hold high the principle of secularism as has been enshrined in our constitution.

The Khalistani extremists have been carrying on attack, arson, murder, loot and other anti-social activities against the innocent people of Punjab and the minorities in particular for a long time. Continuous Governor's rule could not even mitigate the problem far from solving it. It is relieving that after the last Assembly election, an elected Government has taken charge (though only a small fraction of voters ventured to cast vote in the face of extremist threat and intimidation). The success of the Government to curb the extremist anti-national elements and isolate them from the masses will depend on how fast it can implement the 'Package-deal' as mentioned in the Rajiv-Longowal Accord.

The situation in Assam is also very grave. The situation took serious turn as the previous AGP Government reportedly acted hand in glove with the extremist organisation, ULFA in their heinous and subversive activities. Murder, elopement and collection of forced subscription continued for some time even after the present elected Government took office. The situation has improved to some extent by now after some areas of the State were declared as disturbed areas and other follow-up steps were taken.

^{*} Written text of the speech which could not be delivered due to paucity of time.

A long standing solution, however, depends on immediate and appropriate steps for tackling economic backwardness of the people and regional imbalance in the State. At the same time, attention should be paid for solution of the genuine grievances of the tribals and linguistic minorities of Assam.

Even a cursory glance at some pages of our constitution will reveal, the founding fathers were fully alive to the fact that for keeping India strong, united and integrated, social, economic and political justice must be made available to all her people. The founders were fully aware that in the highly stratified Indian society of the past, the Scheduled Caste, Scheduled Tribe, sub-caste and out cast people suffered miserably, both socially and economically. Hence, special provisions have been made in the Constitution for adequate socio-economic safeguards of these people. Again, in order to safeguard the interests of the religious minorities, several provisions have been made. In 1976 the term 'secular' was added to the preamble of the Constitution in order to vindicate it clearly that India does not accept mixing of religion with politics. The framers of the Constitution were also vigilant that if economic justice cannot be given to all her citizens, India cannot remain a strong and united country. That is why, clear instructions have been given to the rulers through the Directive Principles of State Policy that they must strive sincerely so that every ablebodied Indian can have his right to work. For this, land reform measures are necessary and excess land should be distributed among the real tillers of the soil. In industrial sphere also, such policy as help in providing job to millions of jobless should be followed. The 42nd amendment of the Constitution added the term 'Socialist' to the preamble which means clear non-acceptance of the capitalist path.

It will be evident that the divisive, antinational and separatist elements have been able to carry on their subversive activities mainly cashing in on the discontent of millions of Indians who are still half-fed and half-clad. The Constitution and its founders made adequate provisions for solving the problem. And it is the responsibility of the people at the helm of affairs to abide by the directives of the constitution and take steps for extending justice—social, economic and political to all its citizens and this alone will turn 95% of the people into patriots who, in their turn, will successfully combat the extremist challenge and join their hands with the rulers to make India stronger, unified and integrated.

Mr. Chairman: Now I request the hon. MP Shrimati Malini Bhattacharya to address the Seminar.

Shrimati Malini Bhattacharya: Thank you Mr. Chairman for allowing me this opportunity to offer my respects to the memory of Dr. B.R. Ambedkar through the few words that I would like to say regarding two-three constitutional issues which seem to be related to the unity and the integrity of the Indian nation, the Indian Union.

The concept of the Union of India as I see it is a point on which I would like to say a word or two before I go into the details. It has been said that unity has been there in India from the ancient times as evidenced for instance by the temples established by Sankaracharya in the four corners of India. I would like to say that on the other hand while there have been efforts by different religious leaders to establish a sense of community in the different parts of India at the same time there have also been very strong indications of the diversity, the multilateral nature of the Indian nation from a very early stage of Indian history. There have also been scars in our history, scars which show how there have been efforts to suppress this diversity, scars provided by stories of Shambuka and Ekalavya. If there is any lesson emerging from Indian history, the continuity offered by the different pilgrim routes, trade routes, Hindu, Buddhist and Jain temples all over the country, I think that lesson is that if there is any unity in India that unity lies in the admission of diversity, in the tolerance of diversity.

It has been said that the right to seced is not there in our Constitution. This is one of the ideas behind calling India a Union. What does this omission mean? Does this omission of the right to secession from our Constitution mean that there should be hegemonism of one community over another, hegemonism of the Centre over the States, of one region over another? Is it with this intention that the founders of our Constitution omitted the secession clause from our Constitution? I do not think so. Rather, this was omitted I feel on the basis of the equal rights, the equality that has been given in the Constitution as one of the elementary clauses. The right to secession has been omitted because our Constitution admits the composite nature of Indian society and culture. So, unless this equality—not just equality for individuals, but equality for different linguistic groups, different communities, minority communities, minority linguistic groups—which is given in our Constitution is made a reality, unless this is implemented, even if there is no right of secession

in our Constitution, the question of secession will continue to hang fire. Therefore, it is this clause of equality in the Constitution which has to be implemented if we agree with the Constitution of the omission of the right to secession is the right thing.

The point that I wanted basically to rise today is the point about the inter-relationship between the Centre and the States, the Centre and the different regions and the inter-relationship between majority groups and minority groups. So far as one aspect of Centre-State relations is concerned, many illustrious speakers before me have spoken eloquently. I just wanted to make a point about this relationship between the Centre and the States. Sometimes I have heard some of my eminent colleagues saying that the Centre-State relationship is like the relationship of the husband and wife in the Indian family where within the framework of amicability there is a certain precedence of the husband, that is the Centre over the wife, that is the States. What happens is that with one particular model of the Indian family—the upper middle class, the upper class, the upper caste model of the Indian family—this is not only seen as the ideal, but it is also regarded as the paradigm for Centre-State relationship. If we take this paradigm a step further, we may say that it would be in that case, if we accept this, Centre-State relationship might be seen as the relationship between the husband and the wives in a polygamous family, with the wives jealously vying for the favours of the single husband who either confers these favours on one wife or the other or withdraws them from one wife or the other. Is this the right paradigm? I do not think it is.

I rather think that the relationship both at the domestic level and at the Centre-State level should be more of a relationship of interaction, relationship of equality. I am stressing this point of equality once again and I think that the Centre can only become stronger by allowing the States to develop, to have financial rights, financial strength, the strength that the States require for their own development.

I agree with the other speakers who have said that this devolution of authority should not stop merely at the Centre-State relationship. It should be decentralised further to the grassroot level through Panchayat and Municipalities.

There is one more important point. For instance, article 356 is agitating quite a few political parties. My own Party, Communist Party of India—Marxists is demanding either scrapping of article 356 or

radical modification of article 356 so that it cannot be used arbitrarily and in any way that the Government at the Centre likes.

Apart from this clause comes the question of cultural and linguistic entity within the State, which is manifested in the present time, in the demands raised by different linguistic groups for inclusion of their languages in the VIII Schedule. We support these demands. We feel that there are certain languages which have been excluded from the VIII Schedule. At the same time, there is another point. There are certain languages which are not included in the VIII Schedule and which will not be included in the VIII Schedule. For example, take linguistic minorities. In West Bengal, a substantial minority of tribal population for instance, is called Shautalis. Bengali is included in the VIII Schedule. Shautali is not. But in West Bengal, Shautali child has been given the right to have his or her first education through the media of the language that he or she learns from his or her mother lap. Even though the language is not included within the VIII Schedule, the Constitution guarantees that certain rights should be given to these languages. The Constitution recognises right of an individual to be instructed through the medium of mother-tongue. Unless these rights are guaranteed, the inclusion of one or two languages in the VIII schedule will not solve the problem entirely. One is the question of inclusion of language in the VIII Schedule and the other is the question of linguistic minorities having their rights, even though not included in the VIII Schedule. This is a question which we have to ponder.

Similarly, I think, one proposal was made by Shri Vasant Sathe and Advaniji also have spoken on this subject. It is a question whether the boundaries of the States should be redrawn. It is re-constitution of the States where smaller units would be formed. The Constitution, of course, provides for this. But what I am not clear about is, when people say that there can be re-constitution and breaking of States into smaller units, what exactly do they mean? Is it meant politically free for all? If smaller States are formed, on what basis, they should be formed? When we say there is demand for smaller States, on whose demand, who are demanding on what basis? If such States are formed can we ensure that the most deprived sections of the local people would benefit from such re-constitution? In certain region, there is demand for Jharkhand State. Can we guarantee that if such a State is formed, then the most deprived section of the local people, tribals or non-tribals will be benefited by re-constitution of the

State? I think, without pondering over these questions, we cannot issue a universal directive that whenever people wish, there should be such smaller units.

As I have said at the beginning of my speech, the whole question is implementation of equality in real terms, economic equality as well as political equality. There are, of course, certain gaps in the Constitution which we should think of filling up like the right to work. Should it or should it not be included as a basic right within the Constitution? This is a question without which equality does not have any meaning.

Is it desirable that we should move towards uniform civil code? On this point, I would like to say, in India, there are a number of personal laws including Hindu Code Bill. I am including Hindu Code Bill under the personal law. Since these different personal laws are there, as a kind of recognition of the diversity of religious beliefs, I would say that the problem that arises is in these personal laws, there are certain groups within the community, namely the weaker groups suffer. The question whether it is family law or marriage law or property law, we find women at the receiving end of many of the clauses in the personal laws. Women are discriminated against. There is a question of guardianship, the question of property. Since all communities, I am sure, want to remove these discriminations within the members of particular community, that the talk of uniform civil code rises. But this uniform civil code cannot be imposed from above; nor can it be an imposition on the rest of India, the laws of the majority community because the laws of the majority community also are full of holes and full of such discriminations. Therefore, if we are serious about the uniform civil code, then that civil code should not be imposed from above. It should come from within the communities themselves. The communities themselves—their legal experts, leaders of the community—must discuss and deliberate how these discriminations within the personal laws may be removed. In this way, we can move towards a uniform civil code instead of imposing a uniform civil code from above.

Shri Syed Shahabuddin: Mr. Chairman, Sir, Mr. L.K. Advani, Dr. Najma Heptulla, hon. Speakers, hon. Colleagues in the Parliament, Ladies and Gentlemen, I feel privileged to participate in this seminar. I would like to begin by paying my tribute to Dr B.R. Ambedkar on his birth centenary, who has been rightly called the Father of the Indian Constitution, and also to the other founding fathers

of the Indian Republic, who made their own great contribution to the making of the Constitution that we are discussing today.

I also listened with very rapt attention to the opening statement made by Shri Advani. I must express my admiration for his very balanced presentation with nothing more than just a dash of the party line. But that is understable. Sir, there can be no final wisdom in human affairs. 42 years that have elapsed since we adopted the Constitution, have given us a wealth of experience. Therefore, in my view, a time has come to review the Constitution in the light of our experience as a nation. Therefore, broadly, I support this suggestion that there should be a constitutional commission—perhaps an informal commission to begin with or a formal body appointed by the Parliament—to go into the various ideas that are projected and articulated at seminars like this. Human affairs have their own logic and history has its own flow. And laws and Constitution serve no more than as dykes to channelise and, if I may say so, contain and regulate the flow of human affairs. Therefore, after a time, it is necessary to have a look at the dykes to maintain them in good repair and to see that they serve the purpose that they were designed to serve.

Having said this, I would like to make a basic point about the term 'People'. Now the heterogeneity of the Indian people, the diversity of the Indian situation, the plurality of the Indian society have all been commented upon. We are diverse in race, casts, religion, language, and we are also diverse in class, in our historic perceptions, in our literary attainments, in our income levels, in our level of technology, in our state of development from place to place, from region to region, from group to group. Now all these impose a logic of their own.

Now the word 'people'—the Indian people who gave unto themselves this Constitution—are not robots. They are not machine-made entities. They are not uniform. That is granted. Therefore, the word 'people', has to be understood in a broader sense. Constitutionally, 'People'—as I understand it, are not just aggregates of individuals as they would be in a very small and in a very much more homogenous state. People are aggregates of social groups, of living groups, which have identities of their own. The entire purpose of the Constitution is to work out a framework for the harmonised interaction, not only of individuals at a certain level but also of the social groups at the appropriate level. At this point, a simile comes to my mind. We are an evolving nation we have been evolving through the entire five

thousand years of our history. The simile that comes before our mind is: are we a melting pot or are we a mosaic? Now this simile of the melting pot has been used on numerous occasions. But I do recall an important speech by the late Prime Minister, Mrs. Indira Gandhi, towards the end of her life when she likened the Indian situation to a mosaic in which every entity, every individual unit that goes into the making of that mosaic retains its entity and adds lustre and beauty and loveliness to the thole. Now this is a very basic concept. And here we must have philosophical understanding of the situation because this leads us to the philosophical concept of national integration. What are we aiming at? Are we aiming at integration or are we aiming at assimilation? This becomes the essential point. A melting pot leads to assimilation. To my mind, a mosaic leads to integration.

Having defined our objective as nation, we have not merely to preserve the attributes of a State that we are trying to build which is independence, which is sovereignty, which is territorial integrity on which there can be no two opinions. Sovereignty is not negotiable, territorial integrity is not negotiable. These things are beyond question. When it comes to the defence of the national interests, the defence of the national borders, then we are not Hindus or Muslims. We are not Marathi-speaking or Bengali-speaking. We are not Brahmins and Harijans. We are not Nagas or Kashmiris. We are one and the same. That goes without saying. There has to be that degree of emotional integration which is the basis of our nationhood, and national integration must imply that degree of emotional intergration. But national integration is more than that. National integration is a consciousness of oneness, is a question of sharing each other's pains and sufferings is a question of rejoicing together at moments of euphoria. It is a question of suffering when another member of the body-politic, another social group suffers. I would request that we each one of us should look into our hearts and find out how we react when agonising situations of suffering and violence and indiscrimination and injustice come to the public notice.

I find in our own perceptions, in our own reactions, we are not integrated. We do not treat the entire people as one. We react in one way when the suffering is by a certain section and react in totally different way when the suffering is by another section. Of course, it is also a question of distance because human consciousness also has an effective radius. There is something called radius of

attention in human affairs and in psychology. I grant that. But at the same time, when we are talking of integrating our nation, then we must have the large-Heartedness, we must have the openness of taking in our stride, taking in our sweep, participating and sharing in the joys and sufferings of all our people, whatever be their sense basis of identity. That, to my mind, is the test. Now when half the population of India sleeps hungry at night, are we integrated? When children do not get an opportunity of learning their mother-tongue, are we integrated? When people do not have a sense of participation in working the polity because the very concept of decentralisation has been overtaken in practice, by increasing centralisation with every passing year, then if there is no participation, on the part of the people, are we nationally integrated?

Therefore, Sir, apart from the basic concept of emotional integration there has to be Justice. In the Preamble, we defined Justice, first as Social, not first as Political. There is a degree of political justice, but the Constitution talks about Justice, Social, then Economic and then Political. My contention, Mr. Chairman, is that we have failed in the working of our Constitution, because we have not been able to bring about the spirit of Social Justice and that expresses itself in the mal-distribution of income, in the widening of disparities, not only between one individual and another individual, between the highest 10 per cent and the lowest 10 per cent, between one group and another, between one region and another, in fact, Mr. Chairman, between one Panchayat and another, between one block and another, between one district and another within the same State and certainly between one State of the Union and another State of the Union. These disparities have to be curbed deliberately by national endeavour in order to achieve national integration.

My second point is about the equality of religions. Our secularism, whatever it might connote, does not mean non-recognition of religion. It only means that the State has no religion, the State is equi-distant with respect to all religions, the State treats all religions equally. The State does not deny the social institution called religion. In fact, religion does play a life in our individual lives or in our social lives. We will have to ask ourselves one question now. Are we truly, in practice, giving equality to all religions? If all religions are to have equality, then all temples, all mosques, all churches, all gurudwaras must be absolutely secure from the threat of demolition. All individuals must be secure from the threat to their lives or properties only because they

happen to profess a particular religion. Therefore, in practice, we have not been able to achieve the equality of religions.

Coming to equality of language, in the Constitution, we talk about the right of every child to have his primary education through his mother tongue. I am an Urdu speaking person, my mother tongue is Urdu. I saw the Urdu speaking population of various States and a number of Urdu medium primary schools established by the States. You would be surprised to know, Mr. Chairman, that in some States one primary school exists for as many as five lakhs of students. This is farce. That is the equality of languages. Apart from not including in the Eighth Schedule, languages which are the languages of the majority of the inhabitants of some States like Manipur and Sikkim, for example.

In public employment, even in this artifice or machinery of reservation that we employ, can we really say that all social groups, irrespective of their level of backwardness, irrespective of their castes are now equitably represented in the structure of public employment? They are not, of course, we do not have to speak about private employment, because limited is the only scope of reservation in the Constitution as it stands today. So, in my view, to achieve national integration, we must have equitable representation of all social groups in public services, in whatever the State has to offer.

Sir, finally I come to the question of the security of life and property. In Parliament, we hang our heads in shame and we shed tears about the atrocities being committed on the weaker sections. Again, that comes as an emotional divide. Many of us do not even react when they are directed against 'them' and not against 'us'. Our hearts melt when it is against 'us' and we show no reaction when it is against 'them'. That means, we are still far away from the achievement of national integration. The Constitution provides no bar on the special redistribution of the national territory, but what I find today is that the size of the States varies so much that the ratio might well be five hundred to one. Obviously, there cannot be any equality in practice. In my analysis, I think, one of the reasons why the USSR broke up is that more than 50 per cent of the people of the USSR and 50 per cent of the economic infrastructure was in one State. Therefore, there was not balance; there was lopsidedness. So, there should be a better approximation in size and population. Apart from everything else, this is one of the reasons why the map of India should be re-drawn so that there are

no giants and pigmies. There should be something comparable in term so area, in term of population and in terms of national endowments and incomes among the various States.

Finally, I would like to say that we are the threshold of an age, which has been called the age of ethnicity. There is an ethnic upsurge all over the world. There is a certain legitimacy to these aspirations and you cannot coerce them away by invoking laws or the Constitution. Therefore, they have to be recognised and assigned a due place in the scheme of things, in the arrangement within the nation, if we are to preserve our integrity as a nation, territorially and emotionally. I would conclude by simply saying: dominance or chauvinism or imposition or coercion can never bring about national integration. Integration can be brought about only by basing it on equality and on justice, of States, of peoples of groups of religions, of languages, if I may say so, of castes, of whatever we have, whatever be the particular basis of self-identity. They have to be given equal adumbration, equal articulation and then you will find the Union shall emerge stronger than it is now and all talks of separation and secession shall simply fade away. Voluntary association, association in freedom, association in justice, association in equality shall bring about not only national intergration, but also guarantee our security as a nation, our territorial integrity, our independence and our freedom our very future.

Shri P. R. Kyndiah, Speaker, Legislative Assembly, Meghalaya: Hon. Chairman, Madam Heptulla, Advaniji, Om Mehtaji and distinguished friends, I have come here to pay a tribute to the architect of the Indian Constitution, Dr. B.R. Ambedkar and in doing so, I cannot, but make a remark that Dr. Ambedkar was the symbol of a unique personality who imbibed upon himself the statesmanship, scholarship and erudition. I may say that he was the genius among the geniuses. I had the privilege of listening to the various speakers who have made eloquent expression of their views on bringing about national unity and national integration. We are aware that our own Constitution is today being tested. For the last 42 years, this Constitution has been amended a number of times in order to be attuned with the change of times.

At the outset, I would like to make a comment and I would start from where Shri Advaniji has left.

He quoted Dr. Rajendra Prasad, President of the Constituent Assembly, who said:

“After all, the Constitution like a machine is a lifeless thing. It acquires life because of the man who control it and operate it. And India needs today nothing more than a set of honest men who will have the interest of the country before them.”

The Constitution is indeed like a machine. In order to be operational and functional, a machine requires repairs and oiling by the people of India who use it. Here I would like to make a reference to what the great American statesman, the architect of the American Constitution, Thomas Jefferson, who was often times quoted by Dr. B.R. Ambedkar had said. Infact, I take this is what Jefferson said:

“We may consider each generation as a distinct nation with a right by the will of the majority to bind themselves, but none to bind the succeeding generations more than the inhabitants of other countries.”

This is a very profound statement. My question to this august gathering is this. What does the present generation look for? Where are we heading to? When the founding fathers had drafted the Constitution and given unto us this Constitution, had they done so with a foresight to know what is happening today? Today, I would like to focus on this question. Are we today, really speaking on national integration or are we making an attempt to stop national disintegration? Let us face the ground reality. What is happening today in Kashmir, which was eloquently referred to by Advaniji? What is happening in Punjab today, with this move for Khalistan? What is happening in the North East, with the ULFA asking for a Assamese Homeland? What is happening in Nagaland, in Tripura and in Darjeeling? What about the Jharkhand Movement? What is their signals? Let us ponder over it.

I agree with the hon. Member Shri Syed Shahabuddin who has just now spoken. He made a reference to a global phenomenon about ethnic outburst. Whether it be in Japan or United States or Latin America, today we find a sweeping change in the human mind towards a growing consciousness to assert their identity. I do agree with what the Sarkaria Commission has said. It said that India is a homeland of all the citizens of India. It is true. But at the same time you cannot ignore the urge and aspirations of people, wherever they are, to assert their identity.

Today, we have a problem before us in India.

There has been a discussion about the national mainstream. What is a national mainstream? Is it a cultural mainstream based on Hindu Philosophy, or on Muslim Philosophy or on Sikh Philosophy or any other philosophy? In our mainstream, the preponderance is of Hindu philosophy. I want to make it very clear. It is very important that as leaders today when we are participating in the discussion, we raise this question without fear. We know what has happened to the Soviet Russia. Lenin made the Soviet Union in 1919 and today we see the breaking up of Russia. Why? As Shri Syed Shahabuddin said, is it because of disparity of wealth? It is because of monopoly of a few against the many? Is it because of technology import in one area against the interest of other areas? Is it because of the imagination and force of emotional appeal for a particular religion or community? All these things have got to be pondered over now. I am saying this because I feel, like an Indian, a concerned Indian that we have to read the signals of the times. The portents are not good for us. We are only 42 years old. But what will happen tomorrow? For instance let me take the simple question about secularism. I am very happy that the 42nd Amendment Act brought about the word ‘secular’ into the preamble of our Constitution. Now, if we are to be true to ourselves, if we do not want to allow preponderance of politics over our social and economic objectives, then what we should do first is to ban all non-secular parties operating in the political arena. There cannot be any scope for political parties operating on the basis of religion. Because, once we allow it, there is no end to it. There will be an avalanche which will throttle our democracy.

Here, the question that we have to again consider is this. Our Constitution is very clear. The precept is all right, but at the same time, in practice, there is something else.

This is one part of it. The other part is that admittedly India is a vast sea of humanity. We have a society which is multi-lingual, multi-ethnic, multi religious. But at the same time I would like to draw the attention of the members of this Seminar to a very important factor, the State reorganisation, which led to the division of many big States. And that was because to avoid regional disparity as one of the reasons the disparity continues. If we allow the disparity to continue in this fashion, one should not wonder if what happened in Soviet Russia may happen to India also. When I speak of disparity, I speak about economic and social disparities. There is today, in India whether we like it or not, certain

segments of the society who suffer from cultural arrogance. I am proud to be an Indian. Each one of us is proud to be an Indian. But we cannot allow arrogance to rule ourselves. Arrogance, culturally or socially, is a danger to the entire fabric of the nation. The small people are now aspiring for their homeland, whether it is Bodo land or Karbi land. Here is a question of recognising their latest urge. I feel that—this is my personal view of course and it is not the view of my Party or of my friends it is high time today that we consider the Constitution to have three tiers. Today we have the Union, that is, the Centre. We have the State level. I think it is now time to go for a third tier. We had already done it in one way or the other when the Gorkha Hills Council was granted. Jharkhand is another thing. It is high time that we apply our mind as to whether we cannot incorporate in the Constitution a three tier system. This is a thought which has come to my mind and I dare say that the third tier may constitute certain autonomy, politically, socially and economically.

Again, as a tribal, I feel that the tribal population in India is quite huge and it is time that tribals also should feel a sense of sharing in the national pride. I think, the hon. lady M.P. from West Bengal has spoken about the tribals in West Bengal. What are their aspirations? It is true that their children are not getting even an opportunity to learn their language, their mother tongue. These are the things which have to be taken into account.

Shrimati Malini Bhattacharya: May I intervene for a minute? I had said that in West Bengal the tribals are allowed to use their mother tongue as the medium of instruction.

Shri P.R. Kyndiah: That is a very good sign. In fact, this should be done everywhere. I know that in Assam, the tiny tribal population is not allowed. The same is the case in other areas, like in Maharashtra. I know that. Therefore, what you had done in West Bengal, I think, is a matter which has to be emulated.

Some reference has been made to the question of homeland thesis. I agree with Advaniji that the homeland thesis is a very dangerous thesis and that the whole of India should be considered as the homeland of every citizen of the country. This is true. I would like to caution here once more that the time has come now to seriously consider the need to meet the aspirations of the small people in India so that they can feel to be at par with the rest of the population. And in a way that will bring them to the mainstream of our national life. Here I would like to

make one point. We have been talking about India being a land of unity amidst diversity. We have been talking about assimilation and also about the point of cohesion as against fusion. I would like to remind the nature of diversity here, it has to be one of a creative diversity. Mrs. Indira Gandhi used this phrase in a very profound way India is not just a land where unity is abound in diversity. But it is a land of creative diversity. In that note, I end my Speech.

Mr. Chairman: Thank you, Shri Kyndiah.

We are privileged to have with us Shri Shiv Shankar and Dr. Subramaniam Swamy. According to our programme we have to adjourn for Lunch break. The problem is that after we come back from the lunch, the subject will get changed. Hence, I would like to have your permission to continue with the same subject, which is considered to be far more comprehensive and important. We would like to have the participation of as many speakers as possible on this subject because this is a subject which is so comprehensive, which encompasses all the points of the last subject. Therefore, we propose to continue with this subject after the Lunch break.

(The Seminar then adjourned for Lunch to meet again at 14 hours.)

AFTER LUNCH

Mr. Chairman: Friends, we are continuing our discussion on the same subject. I, now, have the privilege of introducing to you the budding Parliamentary Shrimati Rita Verma. She will now address the Seminar.

Shrimati Rita Verma: Thank you very much Mr. Chairman. We have gathered here on an occasion which had reminded us of the contributions that Dr. Ambedkar, the illustrious son of India had made and to reflect as to how far we have progressed on the lines that he intended to.

Shri Advani has initiated a most important discussion and set the right tone. My honoured colleagues and senior friends have made interesting observations which stimulated me to put forth my reactions.

The first question that comes to my mind is, why do we tend to emphasise our differences, religious, linguistic or otherwise, rather than our unified diversity?

My esteemed colleague Shri Shahabuddin had just talked about the melting pot phenomenon versus cultural mosaic. I think what he meant was that it marks an assimilation and cultural mosaic which brings about integration.

History has yet to decide which is even best for a society. Even in a mosaic, there is a basic design and there has to be a basic agreement on that. A single incongruous piece will be irksome and it will not be pleasant. We are all like different colours, of a colourful fabric. We may retain our colour, but we form a beautiful design for a fabric. Equality for different linguistic groups means their assimilation to a composite Indian culture. Equality does not mean the denial of our common cultural and social heritage. And equality of religion certainly does not mean more equality for some and less for others.

About language, I would say this. The learned speech of Shri Ghulam Sarvar was very charming but I wonder how many ordinary people will understand his language. I have some what good knowledge of Urdu, therefore I could understand him. But I do not know how many others could understand him. Also, some thoughts have come to my mind when we talk of scarce Indian psyche as is evident from Shambuk and Ekalavya. But, then why do we forget the permanent scarce inflicted by the foreign invaders? Why cannot we live in peace with our own history? We cannot deny our history. As long as we do not learn to live in peace with it, this scarce will remain.

I know, there is a vehement opposition from certain sections to a unified civil code. But then, I cannot understand why these minority groups want their property cases to be decided according to the Hindu Undivided Family Laws, specially the ceiling cases. You cannot pick and chose like this. If you are honest enough—forces of disintegration are at work—

nobody can harm us. The constitutional provisions are directed towards strengthening the national interaction process. It has served somewhat. But the recent emergence of new factors are overwhelming it.

We have to strengthen our old institutions like the judiciary, the legislature, the executive and the Press; but, equally important is the need to create new institutions; and for all practical purposes, we should grapple with new realities.

I agree with my esteemed colleagues when they say that dominance and chauvinism and coercion cannot bring about integration. But we have to accept that building culture mosaic is not possible by extortion but by concrete action. More than that is required force, degree, time interval and honest attempt. And for this, such interaction can generate ideas and guidelines; and this initiative is very time and sponsoring bodies for this Seminar must be complimented for it. Thank you.

Shri Sailen Chatterjee: Thank you for giving me this opportunity. Many illustrious speakers have dealt

with various aspects of the Constitution and national integration. I am not going to refer to that. I will only briefly refer to the human aspect of the National integration.

I had the privilege of witnessing how Mahatma Gandhi, the guiding star for our national integration and unity and brotherhood, worked and suffered and ultimately became a martyr while preaching for national integration and unity. I am the only person present in this august gathering who witnessed how he suffered for this cause. In 1946, in October, Mahatma Gandhi was staying in "Bhangi" colony in Panchkuin Road, New Delhi. News of large scale destruction of life and property came from Naokhali, now a part of Bengal. He passed sleepless nights. He suddenly decided that his place was not New Delhi, but in the midst of the suffering people. He rushed to Naokhali. I accompanied him. He went around the entire place, saw the destruction and killings and then decided that he would live there all alone for pursuing his "Do or Die Mission".

Members of the Ashram appealed to him with tears that at his old age of 76, he should not live alone. He told them, "I am my own master and I have taken my decision to live alone."

If any of you do not want to live in Naokhali and face suffering, you may go back to Sevagram. If you want to be here, then you go to some distant villages where many people were killed, large scale properties destroyed and work for peace and unity in such places. Then he began to live all alone.

Earlier, the Mahatma was wearing his chappals; but in Naokhali he gave up his chappals and walked from village to village without wearing his chappals and went on preaching his message of brotherhood, unity and national integration. Almost every day blood came out from his tender feet. One day, I asked him, "why do you walk bare foot in this cold weather in these areas full of thorns? Why have you given up your "chappals?" He smilingly told me, "when you go to a religious place, do you wear your shoes?" I said, "no I do not". He said "Well, remember, I am also going to a bigger religious place; I am going to enter human heart; I am going to have influence in the mind of people; how can I wear my chappals; and this suffering is nothing before me; this suffering is nothing before me; this suffering is nothing for the great mission that I have to fulfil." I want to remind this august house that one of the most important aspects of national integration is this cause that Mahatmaji had; and how he worked and suffered for this cause of unity, brotherhood and national integration.

Therefore, this aspect should always be remembered, this aspect, human aspect, should not be forgotten; and I think in implementing of this vital aspect of integration, Mahatmaji's suffering and his work should be our guiding step.

Thank you.

Shri Simon Peter D' Souza, Deputy Speaker, Legislative Assembly, Goa: Mr. Chairman, when I received the invitation to participate in this seminar being held under the joint auspices of the Indian Parliamentary Group, Parliamentarians group and the Bureau of Parliamentary Studies and Training for Dr. B.R. Ambedkar Birth Centenary Celebrations to associate ourselves with the memory of this great and illustrious son of Mother India, I felt honoured.

"BHARAT RATNA". Dr. B.R. Ambedkar, has shed lustre on the Indian Constitution, whose light we find reflected on many facets of our social, economic, cultural as also political life. Dr. Ambedkar has a lion's share in whatever socio-economic progress we have achieved so far and what we envisage to achieve towards socio-economic equity and justice.

Every civilisation, nation is based on a dream. Its codes, ways of life and habits of mind are poised on that dream. There is no doubt that the geographical unity of India was a settled fact of nature even before dawn of civilisation. The geography and the mountains and the seas fashion India as she is and no human agency can change that shape. Since early vedic times the minds of the seers and thinkers of this land have been focused on the concept of a universe developing under the eye of an all powerful and all pervading Architect, combining the natural elemental forces into unity of thought and action. Our Constitution also cherishes the same dream, first in the National interest as also in the international or Global context.

The history of India over last few millennia also reflects that whenever India evolved Rulers adhering to the aforesaid dream, it flourished and prospered. Whenever the people integrated and united themselves under the rulers and greatmen such as Rama, Krishna, Chandragupta Maurya, Ashoka, Buddha, Samudragupta, the Moghal Emperor Akbar; they progressed economically, socially and in the field of art and culture too. Even we could overthrow the foreign yolk, adopting peaceful means, when we all from Kashmir to Kanyakumari and from Goa to Guwahati united under the great leaders such as Lokamanya Tilak and Mahatma Gandhi.

We got 'Swarajya' when we united ourselves. We became a sovereign Republic, an Indian Union, where the power of making rules and ways of administration vests with the people of India. Our Constitution flows from the sovereign people of India in their corporate capacity. It implies that the people of India are not merely an aggregate or a collectivity but a Nation with corporate capacity. India is a Nation. The Preamble of our Constitution also emphasises when it speaks of the unity of the Nation in the context of promoting fraternity among the people of India. It is a Nation with one Will, one Voice and corporate capacity. Dr. Ambedkar said:

"I say that this Preamble embodies what is the desire of every member of the House that the Constitution should have its root, its authority, its sovereignty from the people. That it has."

Thus national integration and unity are basic to our existence. It is the fundamental precept contemplated in our Constitution by its makers. The whole structure of our Constitution is based on this basic concept, United we Stand and Progress, on the background of the historic fact, that, divided we have always fallen.

The Preamble of the Constitution also speaks of securing to all our citizens *Justice, Liberty, Equality* and *Fraternity* with national integration and unity fundamental to all these. The Preamble which originally referred to sovereign, democratic and republic States was substantially amended by adding two words, viz. Socialistic and Secular. It is through a secular attitude that we the Nation can practise fraternity much quicker and better to achieve real progress in social, economic and political fields. In our Constitution, the Justice contemplated is social, economic and political. The Liberty contemplated is of expression, belief, faith and worship. The Equality contemplated is of status and opportunity to promote among them Fraternity, assuring dignity to individual and unity and integrity of the Nation. The Constitution of our country, one of the longest written Constitutions of the world, reflects wisdom of all the others ripened Constitutions and gives fundamental importance to basic human rights and human integration.

The whole edifice of our Constitution is in fact based on that dream of our civilization since Vedic times. The ancient world threw up many fine flowers of varied civilisations in many lands. But with the exception of India and also China, they are all dead and gone. It is only in India and to some extent in

China that the old civilisation and culture have grown and changed but never at the expense of an underlying unity. India is definitely a land of diversities, where since ancient times people belonging to different communities, races, religions, and cultural groups are living. India was very much divided into various princely States even just before becoming sovereign, democratic republic, but a pilgrim since the days of Shankaracharya and even before, could traverse all throughout the length and breadth of this country without any restriction from these different rulers. Pilgrimage all throughout the country was considered essential much like internship after a professional course, for consolidating and rejuvenating wisdom learned from a master stationed at Gurukul headquarters. This brought about and kept up the cultural and emotional unity. In spite of various pre-Aryan and post-Aryan invasions, the spirit of Indianess is very much alive, because at every invasion repeated the process of a fresh infusion of the old and the new, through the capacity of re-adjustment exhibited by the Indian society and the spirit of tolerance all throughout the ages.

In fact, toleration is a characteristic feature of India's culture and heritage which finds its expression through the lofty and noble ideas of Justice, Liberty, Equality and Fraternity in particular enshrined in our Constitution.

Our Constitution offers all citizens, individual and collectively some basic freedoms. These are guaranteed in the Constitution in the form of seven broad categories of Fundamental Rights which are justiciable. The Constitution lays down certain Directive Principles of State Policy which are fundamental in the governance of the country and it is the duty of the State to apply these principles in making laws. These, lay down, that the State should strive to promote the welfare of the people of securing and protecting as effectively as it may a social order in which Justice, Social, Economic and Political shall inform all the institutions of national life.

Due to the wise policy and efforts of Sardar Vallabhbhai Patel we are one, from Kashmir to Kanyakumari and from Goa to the farthest eastern corner of Guwahati, politically as well as geographically. Our Constitution prescribes the ideals towards which we have to strive hard, and though the ideas are very lofty and noble as said earlier, what we find is that in spite of this political unity, separationist forces are raising their ugly heads from time to time. These anti-national elements have been trying to create lawlessness and destroy the unity in the

country. There is no doubt that until and unless these are curbed with a firm determination, they may upset the integrity of our country.

During the last fortyfive years after independence, India has seen so many crises and fought five wars for our national survival unitedly. Our country could overcome these dangers to our existence from outside as the entire Indian populace stood as one behind our military forces during the war conditions. But what happened afterwards? The need of liberal outlook for emotional and national integration was never so great as it is today.

As we are aware, there are certain elements within our country itself misguided by some hostile neighbours who have desire to see that India should be fragmented in small states. Certain foreign powers, jealous of India's achievements so far, intend to weaken it. We have to work among these adversaries and hence the need for higher degree of national integration and solidarity.

There are so many obstacles in our path such as communalism, racism, provincialism, linguism, casteism and what have you. We will have to overcome all these obstacles in order to progress towards a true and healthy democracy as envisaged by the Founding Fathers of our Constitution. We must also cherish their dreams, which were very very dear to our great leaders.

Dreams remain only dreams unless backed by concrete positive efforts, by which they are brought to reality in this world. It is very essential that we must give up communal and narrow sectarian outlook. We each, social or religious group, among us must become truly secular in the sense that whatever religious practices we adopt for our spiritual upliftment, we must equally respect the religious and similar practices adopted by all the others. This appears to be the very first condition essential to our survival. Secondly, the evils of regionalism, linguism, racism, casteism should be rooted out. We must always remember we are Indians first and Indians last. This thought must be at the rootcore of thinking process of ours as well as generations to come.

We have pledged ourselves towards social justice, but removing Economic inequalities must receive priority consideration with a view to achieving the desired goal.

We need to learn a lesson from advanced countries such as Japan, where every citizen is a disciplined and industrious person. A democracy without discipline and hard work is a democracy without future.

We must keep our selves aware that indisciplined trade unionism is as dangerous as indisciplined capitalism, indisciplined demogogy is as dangerous as indisciplined students' power.

To conclude, we need to think more seriously about our present state of affairs and must strive hard to achieve the precepts enshrined in the Constitution of our country, so that they become a practical reality, helpful in our real progress in social, economic, scientific fields so that we can afford to live with dignity in tune with the demands of the 21st Century. With a view to reduce racial, religious and provincial hatred;—inter-region, inter-state, inter-caste marriages must be encouraged.

Tourism properly practised makes a man wiser. Country-wide tourism, affordable to the most common man has to be provided and encouraged. The true meaning of secular, non-sectarian outlook has to be imbibed on the minds of the elderly as well as the younger generations irrespective of whatever religious or sociocultural practices they adopt for themselves. Every citizen of this country must feel that he is an Indian first and Indian last. Though the Constitution gives us the liberty of expression, belief, faith and worship, there is no doubt about that. It is well within the framework of our Indian nationalistic outlook through a feeling of fraternity.

Everyone respects his own mother, but forgets who gave him his mother. It is Mother India which is our true mother, the very source of our existence, nutrition and nourishment, physical, psychological and spiritual. This feeling among the minds of us all can truly bring us progress, peace and happiness. Our great martyrs, who won us Swarajya used the slogan, ('Bharat Mata Ki Jai') which inspired them to even sacrifice their lives. In the same spirit, let us revive the slogan "Bharat Mata Ki Jai" to convert 'Swarajya' to 'Surajya' through disciplined determined hard-work.

Politics with principles, education with character, wealth with charity, commerce with morality, science with service to humanity will only go to form a true national integration.

At the end of every function, particularly meant to build in and promote out national culture let us say, "Bharat Mata Ki Jai". Jai Hind.

Shri Jiba Kanta Gogoi, Speaker, Assam Legislative Assembly: Mr. Chairman, Buta Singhji, Hon. Presiding Officers, learned jurists, honourable Members of Parliament, gentlemen of the Press and friends:

So far as national integration is concerned, India always stood for national unity. National integration is already there. Time and again, India has shown its unity during the British rule and the whole country stood together unitedly and threw the Britishers away from India.

During the Chinese aggression in 1962 also the whole nation stood together and also during the Pakistani aggression in 1964 and 1965 again the whole nation stood together to show its national unity.

But now and then how does this question of national integration arises? Why should it arise? This question arises when there is some tussle, when there is imbalance of opportunities and when there is regional imbalance on the economic plans. People will never tolerate injustice. They cannot stand up when it is a question of hunger. When the belly is hungry it cannot understand anything. When the youth is deprived of his rightful rights, he cannot tolerate. Then only, we think of national integration. The extremist groups are there—be it in Assam, be it in Jammu and Kashmir or be it in Punjab. When there is non-fulfilment of their genuine demands, they go for all kinds of things. We must look into it. Whichever Government is in power, proper attention was not given at a proper time by the administration. This leads to dissatisfaction among the people, dissatisfaction among the youths. They cannot forget anything when it is a question of their existence. The question of disintegration comes only then when there is a failure of administration and failure of the administrative system.

We have seen that only when there is some agitation, when there is some death or such other things, then only we lay stress on these problems. But before that, nobody tries to nip the problem at the budding stage itself. We should take care of this. the question of disintegration comes only because of the failure of the administration. In the Constitution equal rights have been given to everyone. Article 14 has said about the Right to Equality to all. But is it so in practice? Are we getting everything? Do we not find any imbalance? Do we find all parts of our country developing in the same way? Imbalances are there. That is why, this question of dissatisfaction and disintegration arises. Until and unless we look into these things, until and unless we are attentive to

solve the problem, the question of disintegration will be there. We create some problems ourselves due to administrative failure. Suppose there is a problem of extremists. Then police or military comes to take action against the extremists. If they start torturing the innocent people, then even the sympathisers will support them. In that way, strength of the extremist groups will grow. If the army or the police are not disciplined, if they do not behave properly, then definitely the sympathy of the public will go with the extremists. These things are to be seen in a very attentive way. At the same time, foreign countries take advantage of these things because they do not want the development of the country. When there is no peace in the country, when there is no normalcy in the country, the process of development stops, so, foreign countries always try to create disruption in the country taking advantage of the dissatisfaction of the extremists. It may be ULFA in Assam or JKLF in Kashmir or Khalistanis in Punjab. All of them are supplied with arms by the foreign countries. Foreign nationals should not be allowed to take advantage of the situation and the hopes and aspirations of the local people must be met with.

So far as National Integration Council is concerned it is a necessity as per the Constitution. Previously, it was not there. In 1976, through the Forty-second Amendment, we got the National Integration Council. At that time, also, we never thought how to start it, how to implement the provision in practice. As the hon. Speaker said yesterday, National Integration Council was there but it is only an advisory body. Its decisions are not enforceable by law. In that light, if you want to make the National Integration Council effective, some provisions should be made, Constitution should be amended, if necessary. In my opinion, Constitution can be amended and it can be re-written. It was written for the people. If it is not suitable to the people, it can be amended. It was written some half a century ago. Time has changed. This is the necessity of time. If necessary, we should change it. So far as the National Integration Council is concerned, we should think in those lines so that people are progressed and there is prosperity in the country. That is all I want to say.

श्री चम्पालाल जैन: परम आदरणीय अध्यक्ष महोदय, बूटा सिंह जी और उपस्थित सभी महानुभावों व सज्जनों।

आज यह हॉल गौरवान्वित हो रहा है, एक ऐसे महान व्यक्तित्व की जन्म-शताब्दी मना कर, जिन्होंने अपने ज्ञान और अपनी बुद्धि से संविधान बनाकर मानव मूल्यों की सही प्रतिष्ठा कायम करके, दुखी-पीड़ित समाज के वर्ग को विकास की नयी राह प्रदान की है। मेरा यह सौभाग्य है कि पहली बार आज ऐसे बुद्धिजीवियों के बीच उपस्थित होकर अपनी सीमित

वाणी में एक महान व्यक्ति, बाबा साहिब अम्बेडकर जी को श्रद्धांजलि अर्पित कर रहा हूँ।

अभी देश की एकता और अखण्डता के बारे में चर्चा हो रही थी, यह भारत की प्राचीन संस्कृति और सभ्यता से जुड़ा हुआ देश है। इसके कभी खण्ड होने का तो विचार पैदा ही नहीं हो सकता है। यह छोटा-मोटा धरती का कोई टुकड़ा नहीं है, हिमालय जिसका मस्तक है, गौरी-शंकर जिसकी शिखायें हैं, काश्मीर जिसका मुकुट है और दिल्ली जिसका दिल है, गंगा-जमुना जिसके पांव पखेरती हैं, चांद और सूरज जिस देश की आरती उतारते हैं, यह महात्मागांधी का देश है, यह पंडित जवाहर लाल नेहरू का देश है, यह सरदार भगतसिंह का देश है, यह आप का देश है और यह मेरा देश है और यह अपन सब का देश है। यह ऋषियों-मुनियों का देश है, यह गुरु नानक का देश है, यह प्रभु ईसू का देश है। आओ, आज अपन इस देश के लिए जीयेंगे, इस देश के लिए मरेंगे। आओ, आज हम सब यह प्रण करें। हर भारतवासी के दिल में यह छाप हो कि वह देश के लिए जीता है और देश के लिए मरता है और मरने के बाद उसकी राख को गंगा में प्रवाहित भी कर दिया जायेगा तो वहां से एक आवाज निकलती है "राष्ट्रीय एकता जिन्दाबाद"। बहुत अच्छे विद्वानों के विचार सुनने को मिले और कुछ सीखने का अवसर मिला और अच्छा अनुभव भी हुआ। किसी ने कहा है "यू तो हर दिल, संविधान पर फिदा होता है, संविधान के ताल्लुके अंदाज मगर जुदा होता है"। आप सभी डा० अम्बेडकर की जयन्ती मनाने के लिए आए हैं। जो इन्सान संविधान को जीवन में उतारे, वह खुदा होता है। संविधान को जीवन में उतारने का विषय है कि संविधान बहुत अच्छा बना हुआ है। संविधान में कहीं भी कोई त्रुटि नहीं हुई है कि कोई अलगाववादी ताकत देश के हित की अनदेखी करे। यह संविधान का आचरण है। आजकल सभी रूढ़िवाद खत्म हो रहा है। मंदिर-मस्जिद खाली आस्था के घर रह गए हैं। आज मंदिर-मस्जिद में जाकर कोई जन-प्रतिनिधि बैठ जाए और कहे कि मैं चुनाव जीत जाऊंगा। वह अपने कर्म से चुनाव जीतता है। आज आपने बहुत अच्छा आयोजन किया है। किसी शायर ने कहा है और बूटा सिंह जी के लिए भी कहा है—मंदिर में बुत गरे हैं मस्जिद में सपन सपाई, बूटा सिंह जी के दिल में झांककर देखो, उसमें खुदा है।

श्री ईश्वर सिंह, अध्यक्ष, विधान सभा, हरियाणा: ऑनरेबल बूटा सिंह जी, हमारे संविधान का डा० अम्बेडकर ने ड्राफ्ट किया और उसको एप्रूव कराया। उसमें सभी बातें दी हुई हैं जिससे देश की एकता और अखण्डता कायम रहे। इकबाल ने कहा है—"कुछ बात है कि हस्ती मिटती नहीं हमारी, सदियों रहा है दुश्मन दौर ज़मा हमारा, यूनानो मिश्र व रूमा सब मिट गए जहां से, लेकिन महर है बाकी अब तक निशाँ हमारा"। हमारे सारे देश की एक ही कल्चर है, एक ही विचारधारा है और एक ही हिस्ट्री है। 85 करोड़ की आबादी इस देश की है और यह बहुत बड़ा देश है। फिजीकली भी यह बहुत लंबे-चौड़े एरिया में है। हर धर्म के लोग यहां हैं। जो धर्म दुनिया में हैं, वे सब इस देश में पाए जाते हैं। जब ईसाई धर्म शुरू हुआ तो सीधे कुछ मिशनरी केरल में आ गए और बाद में 16वीं-17वीं शताब्दी में जो यूरोपियन, पुर्तगाल, अंग्रेज, फ्रांसीसी और डच जो जहाजों के जरिये यहाँ आए वरना उससे पहले ईसा की पहली-दूसरी शताब्दी में ईसाई धर्म के कुछ मिशनरी हमारे देश में पहुंच चुके थे।

पारसी लोग ईरान से भागकर महाराष्ट्र में आ गए जो इसी मेन-स्ट्रीम में है। उस वक्त बम्बई नहीं था। इसी तरह से बुद्ध धर्म, जैन धर्म और सिख धर्म, हिन्दू-धर्म की शाखाएं हैं। रिफारमिस्ट मूवमेंट है। यह भी यहां पर समय-समय पर हुआ है। इस्लाम धर्म भी यहां पर भारतीय कल्चर में है।

हिन्दू लोग भी बहुत से पीरों को उसी तरह से पूजते हैं। रामायण और महाभारत यहां के कल्चर की आधारशिला है। उसका भी विस्तार सारे देश में है। उनकी कहानी भी दक्षिण के महाबलीपुरम तक भी पत्थरों की खुदाई में मौजूद है, चाहे आप पहाड़ में या आसाम में चले जाएं। इस देश में 565 रियासतें थीं। सरदार पटेल और पं० नेहरू ने उन्हें मिलाकर देश में एक कर दिया। देश में कायदा कानून एक है और सारा देश एक है। हालांकि उत्तर भारत और दक्षिण भारत कभी एक नहीं हुआ। दक्षिण भारत का कोई राजा उत्तर भारत में राज नहीं कर सका। यदि मराठों के घोड़ों ने दरियाएं सिंध में जाकर पानी पीया, लेकिन वह भी टैम्पोरेरी था और वे पक्का कब्जा नहीं कर सके। तीन-चार रियासतों के आगे वे नहीं बढ़ सके।

दक्षिण के कुछ बड़े राजाओं ने उत्तर भारत में जाने की कोशिश की और वैसे ही उत्तर भारत के कुछ बड़े राजाओं ने वहां जाने की कोशिश की, लेकिन परमानेंट राज्य स्थापित नहीं कर सके। अब यह देश काश्मीर से लेकर कन्याकुमारी तक एक है। हमारे नेताओं की मेहरबानी है जिन्होंने कुर्बानी देकर ऐसा किया है। यहां पर अलग-अलग धर्म, भाषा और नस्ल या फिरका, सभी हैं। इकबाल ने कहा—“हिन्दी है हम वतन है हिन्दुस्तान हमारा”। यह बात सब जगह मौजूद है। धर्म-मजहब नहीं सिखाता आपस में बैर रखना। आपस में मजहब का बहुत से लोग गलत इस्तेमाल करते हैं। सारी दुनियां एक है। सभी धर्मों के मूल सिद्धांत एक हैं। सभी कहते हैं—All roads lead to the same goal.

यहां सभी अच्छे कामों के बारे में कहते हैं। सभी गरीब आदमी की मदद के लिए कहते हैं। सभी ऊंचे आदर्शों के बारे में कहते हैं। किसी धर्म में कोई कान्ट्रेडिक्शन नहीं है। यहां तो जाहिदे तंग नजर ने मुझे काफिर समझा और काफिर समझते हैं कि मुसलमान मैं हूं। हमारे कंपैरिटिव रिजेशन की स्टडी नहीं है। जहां तक सैक्युलरिज्म का मतलब है, यह ठीक है कि हम सभी धर्मों की इज्जत करें इसका मतलब यह नहीं कि हम अपनी शिक्षा नीति में धार्मिक शिक्षा न दें। धर्म ड्यूटी को कहते हैं। अगर हमें यह पता न हो कि हम जिस गाड़ी में बैठे हैं उसमें कहां जाना है तो हम अपने जीवन में सफल नहीं हो सकते। सभी धर्मों में अच्छे किस्से कहानियां हैं। उनको सिलेबस में शामिल किया जा सकता है जिनसे बच्चों को पूरा ज्ञान हो सकता है। श्री रवीन्द्र नाथ टैगोर ने गीताजलि में कहा था—Where the mind is without fear and the head is held high.

यह जो फीयर है, वही है जहां कम्युनिज्म की वजह से झगड़ा हो और आपस में डर का वातावरण पैदा हो जाए। जैसा पंजाब में टैररीस्ट्स का धर्म से कोई ताल्लुक नहीं। वे दूसरे देश के ट्रेन्ड हैं। कभी किसी गुरु ने कोई बात नहीं कही कि बेगुनाह बच्चों या औरतों को मारो। उनकी हिफाजत के लिए उन्होंने कहा है। बहुत से लोग मिस-गाइडेड हैं। टैगोर ने कहा है—Where the world which has not been broken up into fragments by narrow domestic walls.

वह नैरो डोमेस्टिक वाल विचारधारा की है। उसमें विचारधारा अलग-अलग हो सकती है। लेकिन उसमें हारमोनी है जबकि देश के लिए एकता और अखण्डता के लिए सोचना चाहिए। यह हो तो देश मजबूत है। स्वामी विवेकानन्द ने सारे देश में घूमकर, शंकराचार्य ने और कई महात्माओं ने सारे देश में घूम कर एकता की भावना जागृत की है। स्वामी विवेकानन्द ने कहा है कि—

“Look at the ocean and not at the waves; When the waves subside, it is all water.”

The whole country is one.

हमारी जात-बिरादरी की बातें हैं, लेकिन लोग अपने स्वार्थ के लिए जात-बिरादरी का इस्तेमाल करते हैं। इससे हमारी स्थिति गम्भीर हो जाती है। वैसे हमारे संविधान में सभी कुछ बातें दी हुई हैं। हमारे वित्तीय अधिकार हैं। यह ठीक है कि ज्यूडिशियस मिक्सचर होना चाहिए। सूबों की भी अपनी स्वतन्त्रता है, वे टैक्स लगा सकते हैं और इक्ठ्ठा कर सकते हैं। लेकिन वे लगाते नहीं हैं। जैसे बिजली बोर्ड जो राज्यों में हैं, तमाम घाटे में हैं। क्योंकि वे चाहते हैं कि एग्रीकल्चर को टैक्स न किया जाये, वोटों से डरते हैं, वरना चाहिए यह कि बिजली पूरी दी जाये, भले ही महंगी दर पर दी जाये, इसमें कोई बुराई नहीं है। समवर्ती सूची में भी लैजीस्लेट कर सकते हैं राज्य उसके विरोध में नहीं जा सकते। सेंटर का मजबूत होना निहायत जरूरी है। कुछ इमर्जेंसी की पावर का मिसयूज करने की बात आई, यह ठीक है, यह सब कुछ व्यक्तियों पर और समय पर दारोमदार होता है। लेकिन जरूरत इस बात ही कि हम बेस बनायें। बेस व्यक्तियों से बनता है जो इसका उपयोग करें।

“Education is the conquest of nature—internal as well as external.”

इसलिए जरूरी है कि हम शिक्षा के सिस्टम को बेस बनायें जिससे हमारे नौजवान ठीक ढंग से पूरी तरह से काम करें। उस स्तर पर हम राष्ट्रीय इंटीग्रेशन को विषय के रूप में शामिल करें और उन्हें पढ़ायें ताकि वहां से हमारा देश सही ढंग से बने और चले।

हमारी आल इंडिया सर्विसेज हैं, योजना आयोग है। ये जितने भी सेंटर के अदारे हैं उनसे देश की एकता एक बनती है। इसी तरह से संस आफ सायल की बात राज्यों में चली हुई है। हालांकि उन लोगों ने आकर प्रगति की है, कारखाने लगाये हैं। हम चाहते हैं कि विदेश से लोग यहां आकर धन लगायें, विदेश में जो हिन्दुस्तानी हैं वे भी आयें, इससे लोगों को रोजगार मिलेगा और माल की क्वालिटी भी सही होगी। इसी तरह से देश के अलग-अलग हिस्सों से अलग-अलग लोग राज्यों में गये हुए हैं। लेकिन कुछ जगह ऐसी रीति चल पड़ी है, जैसे कि असम में दूसरे प्रान्त के लोगों के प्रति उनको वहां से निकालने की भावना भड़काई गई। जबकि उन्होंने वहां बड़ा काम किया है। मैं समझता हूं यह टेडेंसी अच्छी बात नहीं है। मैं समझता हूं इस देश में टोलरेंस है और इस देश में एकता का सूत्र है जिससे सारा देश एक है।

Shri A. Dharma Rao, Deputy Speaker, Andhra Pradesh, Legislative Assembly): Hon. Chairman, Shri Buta Singhji and friends:

The subject of national integration is uppermost in the mind of every citizen of India now a days. It is for this cause, two great leaders, Mahatma Gandhi and

Indira Gandhi became martyrs. Certain features which indicate nationality have been there in our country since times immemorial to establish that not only the present Indian territory but also the territories of Pakistan and Bangladesh had been of one nation. No doubt, these territories were never under a common rule except through the British regime. But the language like Sanskrit, scriptures like Vedas, mythological works like Ramayan and Mahabharat, the common tradition, customs and culture had created a feeling of oneness and one nation. The British rule had brought the people of this vast territory under one rule. But this common rule of foreigners had roused the latent feeling of nationality among the Indians. The First Indian Independence War of 1857 is an example of this feeling. The native Hindu rulers and the Muslim rulers came together fought against the British rule. The Indian National Congress which led the independence movement had taken particular care for developing the feelings of nationality among the people of various religions, languages and regions during the course of freedom struggle. After the independence and inevitable partition of Pakistan, the Constituent Assembly which was constituted in 1947 had given paramount importance to the national unity not only to keep up the unity but also to develop emotional integration of the country. The founding-fathers of the Constitution who were of national level personality and great intellectuals had taken meticulous care on this aspect. We can proudly proclaim that our Constitution is the best fundamental law that suited to the country in the given conditions and circumstances especially in the context of unity and integration. The Constitution is unitary in structure but federal in spirit. It is a union of States, not of provinces. The grandly sounding highly inspiring Preamble itself inculcates the national feeling. If we look at the Preamble itself, it says:

“We, the people of India, having solemnly solved to constitute India into a Sovereign Socialist, Secular Democracy Republic and to secure to all its citizens:
Justice,
Liberty,
Equality etc.....”

The unity and integrity of nation were well stressed in this Preamble itself. Every possible effort was made in fashioning the system of the Constitution to maintain the unity and to achieve the integrity. The Chapters on Fundamental Rights and on the Directive Principles of State Policy are

well in that direction, particularly in respect of socio-economic, political, justice and in respect of religion and freedom.

Parliament with representation to all parts of India, single judiciary, single citizenship, single defence force for the entire country, common civil service, uniform civil laws, communication, Planning Commission, regular Finance Commission, NDC and the National Integration Council are all instruments in that direction. Having regard to various languages that the people of India speak, the various religions to which they belong, the various regions they reside in, there has been controversy among thinkers whether India is a nation of various States or of a State of various nations.

In my view, both these propositions are incorrect. I feel that India is one nation and one state. There is a strong fabric of unity in the diversity of Indians. In view of the unfortunate divisive tendencies and in terms of tendencies developed in some parts of the country nowadays, a few intellectuals, like the former Union Home Minister, Shri K. Brahmananda Reddy, who has circulated a paper, are of the opinion that it is better to take a fresh look at the Constitution. For that purpose, a fresh Constituent Assembly has to be constituted and that the present generation, especially the youth, who have no personal knowledge of the events of freedom struggle, have to be involved in this Constituent Assembly and that they should be given a satisfaction of framing a fresh Constitution by themselves.

In my view, this is no solution for the present-day evils of secessionist and extremist tendencies. The remedy suggested is worse than the disease itself. I feel that the scheme and provisions of the Constitution are good enough to maintain the unity, development and emotional integrity of the country thanks to the wisdom of the founding fathers, especially Dr. Ambedkar.

Prof. C.P. Thakur: Thank you, Mr. Chairman, for giving me this opportunity. It is really very thoughtful of you to have extended the time for discussion on this particular subject. The very fact that far too many participants are willing to make contribution signifies that the subject is uppermost among all of us—the country's concern with the problems of national integration. I appreciate your concern that one should limit his remarks in terms of time.

Three thoughts come to me. Number one: Is this not time to think whether we committed an error of judgment in creating linguistic States or not? Has it solved the problem or created more problems, particularly such problems which we did not anticipate. And if we realise that there was some sort of an error of judgment, what kind of correction do we have in terms of choice?

Secondly, I think, I can stick out my neck and put another question. At some point in history, for better or worse, we decided to separate the national Parliament election from State elections. There might be a very persuasive reason to do that. But today, we find that the anticipated integrated balance between the Centre and the State legislature with that simultaneity of the election process, has been ruptured with some consequences which are painful.

Number three, as a student of economics, I never fail to bring the question of regional imbalance of one or the other kind. If we try to move together, we move very slowly but perhaps we move in an amicable way. But if we try to move faster, even iniquities come. It is not that iniquities are unavoidable. The only thing is that if they are inevitable, then some sweetness must be there. And ultimately balance would come.

Having raised those three questions, I would like to make my observation in two areas. Number one, the delicate balance that we have created through the founding-fathers' contribution between the executive, the legislature, the judiciary and the civil services, with a common purpose, has that balance been retained or has it been put to severe stress? Are they working with a common purpose with an integrated design or are they working at cross purposes? There my submission is that a time has come where we should take note of the possibilities of their working at cross purposes and in the process hurting the common cause rather than promoting the common cause which was thought behind the design of that.

The second area is the Centre-State relationship. Since morning, several people have talked about what kind of stabilisation we had and what exactly we are up against. I think, the hon. Deputy Speaker from Andhra Pradesh just referred to some of the federal integrating institutions like in the field of education, the University Grants Commission, in the field of development planning, Planning Commission and the National Development Council, in the field of political integration, National Integration Council, Regional Integration Council. Then take particular functional areas—Indian Labour Conference and Standing Committees, Central Services and integrated

Judiciary. These were the institutions created to promote the process of federalism that within the federal Constitution we have a unitary kind of a thrust. It could not have been possible without the contribution of these institutions. My submission to this august gathering is that we should ask a very searching question. Are these institutions today working with the same vigour, health and contentment for which they were created? And the answer, I am afraid, is 'no'. There is the need to replace, if they cannot be repaired, and if they can be repaired and reformed, that must be done with some urgency.

Now the social fabric today in India has been subjected to tremendous pressure to an extent that it seems that social equilibrium is facing a fracture.

Now the challenge is emerging from different sources. It has taken decades of perseverance and concerted action to raise the civic consciousness at the level of nationalism. Today, we find that this carefully created national consciousness is being replaced by a variety of sub-national consciousness whether that is around religion or region or caste or community or economic categories. But the fact remains that we are beginning to respond emotionally and with expediency to these sub-national persuasive efforts rather than that much nobler cult of consolidating the national consciousness. Painfully we are discovering some disturbing tendencies. At the level of consciousness, the proliferation of different parties using different political arguments or agenda for expedient political gains, are creating some disturbing portents.

I am not trying to raise accusing fingers to any particular party or more than one particular party. All of us have committed mistakes. Some have committed conscious mistakes; others might have committed inadvertent mistakes. But we have contributed in this area. But political arena generates far too many divisive forces today in response to this expedient calculation, urge for individual electoral gain or supremacy of an ideological stream or for that matter access to State power by a particular path are understandable and we respect those considerations. But the choice of means adopted in this process may have integrating or disintegrating contributions. The wisdom of the political leaders and their commitment is on test today. When I say the wisdom of the political leaders, I am not sparing any political party.

They are on the test whether they are on the side of the tendencies which will integrate us as a nation or on the side of the forces which are out to get

expedient gains, but at a very costly price, that is, strengthening the forces of disintegration. Again, Mr. Chairman, consciously or inadvertently we are witnessing the social fabric being fractured. Can we now gather courage and arrange ourselves to persuade in such a way that we are able to knit this fractured society? I think, time is running out, but still there is scope for that. If the society remains disintegrated, the nation has to pay a heavy toll. We have talked about discrimination and also about reservation. That is one element, but a very powerful element. The tool is good, but who is using it? That is more important. Perhaps, consciously it was not done to integrate the society, but it was done for different calculations.

The last point I would like to make is that in a society of high economic disparities, I think, if we remain deprived, then we cannot raise our level of national consciousness to match up with those who are better off. There cannot be a superior Indian, an affluent Indian and a destitute Indian. So, those who have the levers of power, those who are opinion leaders, those who have the capacity and will to contribute to nation building, will have to think correctly. After, 4½ decades, we are sitting together in a free and frank manner to review our contributions, our performances and lapses. At this time, our lapses come foremost to our thinking. Those lapses have to be corrected.

Mr. Chairman (Shri Buta Singh): Now, we switch over to the next subject and the hon. speakers who wish to cover their points can do so in the next subject.

Secretary-General, Lok Sabha: Hon. participants, we have had a fruitful discussion on the three themes of the seminar. Now, I have the proud privilege and honour of requesting respected Buta Singhji to deliver his key-note address on the last theme of the seminar, 'Constitution of India in Precept and Practice.'

Respected Buta Singhji has been the chief guiding force and has extended his powerful support in organising this seminar. In fact, this seminar would not have achieved this success as it has done, without his blessings and powerful support. Now, I request him once again, on your behalf to deliver the key-note address on this subject.

Mr. Chairman (Shri Buta Singh): Honourable Presiding Officers, Honourable Jurists, Honourable Members of Parliament, and Distinguished participants. It was with the inspiration from our hon. Speaker Shri Shivraj Patil that the idea of holding a

national seminar with a view to pay our humble tributes to Babasaheb Ambedkar, the founding father of Indian Constitution that we organised this two days' seminar in Delhi. We are now entering into the last phase of the seminar and the subject that has been earmarked for me is "Constitution of India in Precept and Practice."

अगर हम अपने संविधान के सिद्धान्त और व्यवहार की ओर देखेंगे तो ऐसा लगेगा कि सिद्धान्त और व्यवहार एक ही सिक्के के दो पहलू हैं। यदि हम सिद्धान्त को कथनी का रूप दे दें और व्यवहार को करनी का रूप दे दें तो इन दोनों में जितना अन्तर कम होगा, उतना ही हमारे संविधान की सफलता और संविधान का प्रभाव अखंड होगा। जितना इन दोनों में अंतर होगा उतना ही हम मान कर चलेंगे कि हमारा संविधान सफल नहीं हुआ।

जहां तक सिद्धान्तों का प्रश्न है, कल से हमारे जितने भी महान विद्वान, श्रेष्ठ नेता या न्यायविदों ने इसमें हिस्सा लिया, सिद्धान्तों के रूप पर पूरी तरह से प्रकाश डाला गया। साथ ही साथ पिछले 42 वर्षों में संविधान के अन्तर्गत जो हमारे राष्ट्र की व्यवस्था का संचालन हुआ, उसके ऊपर भी प्रकाश डाला गया। यदि सिद्धान्त की ओर देखें तो शायद विश्व के तमाम संविधानों को एकत्र करके भी एक जगह पर रखें तो इतना श्रेष्ठ और मानवीय सिद्धान्त आपको किसी भी एक राष्ट्र के संविधान में नहीं मिलेगा। इन सिद्धान्तों में हमारे देश के स्वतंत्रता संग्राम का 100 साल का इतिहास भरा हुआ है और तमाम मानव जीवन की कीमतें और कदरें जिनके ऊपर राष्ट्रपिता महात्मा गांधी जी ने और हमारे स्वतंत्रता संग्राम के सेनानियों ने जीवन भर संघर्ष किया, अपने देश को आजाद करवाने के लिये और साथ ही साथ अपने देश को एक स्थाई भविष्य देने के लिये, जिससे भारत वर्ष केवल स्वतंत्र देश ही नहीं बल्कि पूरे विश्व को मानवीय कदर-कीमतों पर एक मार्गदर्शन का रूप दे सके, इस प्रकार के सिद्धान्तों का उन्होंने अपने संविधान में संकलन किया। और उन सिद्धान्तों को लेकर अपने देश के विकास का कार्य शुरू किया। सबसे बड़ा सिद्धान्त हमारे देश के संविधान के प्रिम्बल में है। प्रिम्बल में एक-एक शब्द में, एक-एक वाक्य में सिद्धान्तों का इतिहास भरा पड़ा है। इन सैद्धान्तिक मूल्यों को हमारी कांस्टीट्यूएंट असेम्बली में पेश करते वक्त देश के निर्माता स्वर्गीय पण्डित जवाहर लाल नेहरू ने अपने शब्दों में यह कहा था. while moving the Resolution on the Preamble and objectives of the Constitution, he stated:

"This is something more than a Resolution. It is a declaration of firm resolve, a pledge and an under-taking and for all of us, a dedication."

जब हम सिद्धान्तों की बात करते हैं तो प्रिम्बल में सबसे पहले

"Justice, social economic and political, liberty of thought, expression, belief, faith and worship, equality of status and of opportunity and to promote among them all, fraternity, assuring the dignity of the individual and unity and integrity of the nation."

इन सिद्धान्तों में जो भी अच्छे से अच्छे मानवीय मूल्य हो सकते थे, उनका उल्लेख किया गया और उसके पश्चात् संविधान की प्रत्येक धारा के नीचे इन सिद्धान्तों की बुनियाद है। चाहे हम संविधान के किसी अनुच्छेद को देख लें, उसके पीछे आपको यह मानवीय सिद्धान्त नजर आयेंगे। 42 वर्ष की आजादी में और विकास के समय इन सिद्धान्तों पर हम कहां तक सफल हो पाये हैं, इसमें भी हमारे माननीय वक्ताओं ने अपने-अपने विचार दिये। इस संगोष्ठी के लिए हमने जो विषय निर्धारित किये थे, उसमें इन सिद्धान्तों को बहुत हद तक हम लोगों ने कवर किया है। जब हम जस्टिस सोशल, इकोनॉमिक एण्ड पोलिटिकल कहते हैं तो आज 42 वर्ष के बाद हमें देखने को क्या मिलता है। इसमें कोई शक नहीं कि हमारे देश में एक यूनीफॉर्म एडमिनिस्ट्रेशन आफ जस्टिस निर्धारित हुआ है, मगर जब हम न्याय को, सामाजिक, आर्थिक अथवा राजनैतिक क्षेत्र में देखते हैं तो राष्ट्र के जीवन में कुछ ऐसे पहलू हमारे सामने आते हैं, जिनसे हमें आभास होता है कि स्वतन्त्रता के बाद वह भावना जो हमारे स्वतन्त्रता संग्राम में थी, उससे हटकर कुछ स्वार्थ और ऐसी कुछ भावनाएं आ गई, जिसकी वजह से हमारे यह सिद्धान्त वेस्टेड इण्टरैस्ट के हाथ में चले गये और नतीजा आज यह है कि जब हम सोशल जस्टिस की बात करते हैं, सामाजिक न्याय की बात करते हैं तो केवल अंशमात्र आरक्षणों को लेकर ही हम न्याय की संज्ञा देते हैं। क्या केवल रिजर्वेशन ही सोशल जस्टिस है? इससे क्या सोशल जस्टिस कम्प्लीट हो गया? Will a few reservations here and there, serve the purpose? उसमें भी यदि हम तह तक जायें, The Reservation Policy is the culmination of a deep political thought and of a great political movement.

रिजर्वेशन कैसे प्राप्त हुआ, रिजर्वेशन तब प्राप्त हुआ था, जब हमारे देश में एक बहुत बड़ा संघर्ष हुआ। डा० बाबा साहेब अम्बेडकर ने पिछड़े हुए वर्गों के लिए, शोषित वर्गों के लिए एक बहुत बड़ा संघर्ष किया। राष्ट्रीय स्तर पर सिद्ध करके दिखा दिया कि जब तक हम समाज के इन पिछड़े हुए वर्गों के लिए विशेष प्रावधान नहीं करेंगे, तब तक सामाजिक न्याय नाम की चीज हमें हासिल नहीं हो सकती और उसका परिणाम यह हुआ कि हमारे देश के राजनैतिक ढांचे में उनके लिए अलग से प्रावधान करने की स्वीकृति हो गई। नतीजा यह हुआ कि जैसे आज के प्रमुख वक्ता श्री लाल कृष्ण आडवाणी जी ने सुबह कहा कि दो राष्ट्र की नीति को मान्यता देकर हमने अपने देश का विभाजन कर लिया। इस प्रक्रिया को भी ऐसा ही मान लिया गया कि यदि डा० बाबा साहेब अम्बेडकर की विचारधारा को कानूनी संज्ञा दे देते हैं, स्टेच्यूट बुक पर ले आते हैं तो स्थाई तौर पर हमारे देश में समाज टूट जायेगा, बांट दिया जायेगा। इसीलिए महात्मा गांधी जी ने इस देश की एकता और देश के भविष्य के लिए एक बहुत बड़ी चुनौती मानकर खतरा मानकर उन्होंने आमरण अनशन की घोषणा कर दी और नतीजा हुआ कि उसके बाद यह फैसला हुआ कि अगर अलग से सैपरेट इलैक्टोरेट नहीं तो रिजर्व इलैक्टोरेट पिछड़े हुए वर्गों को दे दिया जाय और नतीजा हुआ कि उसकी रूह से हमने आरक्षित प्रावधान हमारे संविधान में अंकित किया लेकिन क्या इससे सामाजिक न्याय हो गया? पहली बात तो यह है कि जो आरक्षण प्रावधान हुए, उन्हें आज यदि हम देखें, तो देखने को क्या मिलता है। आज हमारे देश में 71 परसेण्ट के करीब पिछड़े हुए लोगों की देश की संख्या है।

22.5 प्रतिशत तो अनुसूचित जाति अथवा जनजाति के हैं और 50 प्रतिशत के करीब बैकवर्ड क्लासेज के हैं। दोनों को मिलाकर देखा जाय तो 71-72 परसेण्ट के करीब वह पोपुलेशन बनती है, जिनको हम पिछड़े हुए लोग कह सकते हैं। यदि हम अपने देश की आज की सेवा की व्यवस्था, सर्विसेज की हालत देखें तो उसमें क्लास वन सर्विसेज में पिछड़े हुए वर्गों का क्या हिस्सा है? 72 परसेण्ट पोपुलेशन को 11 प्रतिशत हिस्सा मिलता है और फिर तरह-तरह के लांछन, तरह-तरह की बातें कही जाती हैं। जब यह मण्डल आयोग का वक्शन उठा तो क्या-क्या नहीं कहा गया। बड़े-बड़े आर्टिकल लिखे गये और बहुत बड़े-बड़े विद्वानों ने, ज्यूरिस्ट्स ने इस बात को देश की एकता और अखण्डता के लिए एक बहुत बड़ा खतरा महसूस किया। 72 प्रतिशत लोग यदि अपने सामाजिक न्याय की मांग मांगते हैं और वह भी स्टैटिस्टिकल पोपुलेशन के आधार पर मांगते हैं तो उसको चुनौती माना जाता है और पूरे देश के क्लास वन सर्विसेज में 11 परसेण्ट हिस्सा है तो क्या हम इसको सोशल जस्टिस कहेंगे?

दूसरा क्षेत्र जिससे मानव जीवन को विकास मिलता है, जिससे राष्ट्रीय जीवन में समता की माप तौल की जा सकती है, सर्विसेज के बाद ट्रेड एण्ड कामर्स की बात होती है। सामाजिक न्याय में जो बाणिज्य और उद्योग क्षेत्र हैं, उसमें देखा जाय तो आप को हैरानी होगी कि 15 प्रतिशत की संख्या के लोगों के नीचे देश में 97 प्रतिशत ट्रेड है और 85 प्रतिशत लोगों की आबादी वाले हिस्से के लोगों के पास 3 प्रतिशत ट्रेड एण्ड कामर्स है। क्या हम इसको सोशल जस्टिस कहेंगे? एक तरफ तो 97 प्रतिशत ट्रेड एण्ड कामर्स इस देश का 15 प्रतिशत लोगों के पास में है। और दूसरी तरफ 97 प्रतिशत लोगों के पास 3 प्रतिशत ट्रेड एण्ड कामर्स है। यह गवर्नमेंट के आंकड़े हैं, मैं यह आंकड़े अपनी तरफ से नहीं दे रहा हूँ। इसलिए हम जब सोशल जस्टिस और इकोनॉमिक बस्थित की बात करते हैं तो हमें देखना होगा कि वर्तमान संविधान के अन्तर्गत, आज तो मार्केट इकोनॉमी की बात चल गई, यदि हम रिविज और कर देखे तो यह आंकड़े जो मैंने पेश किये हैं, यह भी आपसे लुप्त हो जायेगे.....ये भी देखने को नहीं मिलेंगे। जिसके पास क्षमता है, वही आगे बढ़ पाएगा। मार्केट इकोनॉमी में सबसे पहला विक्रिम वीकर-सैक्शन हो सकते हैं। यहां पर तो हम सरकार के द्वार पर जा सकते हैं और कचहरी में जा सकते हैं। यदि आपको कचहरी की बात बताऊं तो आपको और भी आश्चर्य होगा। इम्प्लिमेंटेशन आफ रिजर्वेशन पालिसी के ऊपर सबसे पहले तो सरकार ने केवल घोषणा ही की। संविधान के अन्तर्गत रिजर्वेशन की घोषणा हुई, रोस्टर बनें, रूल्स बनें, मगर कानून नहीं बना। यदि रिजर्वेशन पूरा नहीं होता है, तो सजा नहीं दी जा सकती है। यह तो डायरेक्टिव प्रिंसिपल्स से भी कमजोर हो गया।

An officer in the Personnel Department can get away with everything. He is not accountable. Implementation of reservation policy is not the accountability of anybody in the Government.

अगर रिजर्वेशन का परसेंटेज पूरा नहीं हुआ है, तो नहीं हुआ है। पोस्ट तीन साल चलायेंगे, फिर डि-रिजर्व कर देंगे। हमारे स्व० राजीव गांधी जी ने यह डि-रिजर्वेशन के प्रावधान को खत्म किया है। मगर यह पूछना पड़ता है कि क्या बात है कि इस प्रावधान के पीछे कोई कानून क्यों नहीं

बनाया, कानून होना चाहिए था, ताकि यह जो रिजर्वेशन पालिसी है, इसका पूरा इम्प्लीमेंटेशन हो, तभी जाकर सोशियल जस्टिस हो सकता है। इसमें कोई शक नहीं है कि सोशियल जस्टिस के क्षेत्र में चेतना आई है। जस्टिस-इन-दि-पोलिटिकल-फील्ड—मैं मानता हूँ कि यदि रिजर्वेशन की पालिसी हर दस साल के लिए नहीं बढ़ाई होती, तो कुछ लोग जो आज हमारी संसद में, विधान सभाओं में और विधान परिषदों में देखने को आप को मिलते हैं। यदि फ्री-मार्केट के सिद्धान्त को मान लिया जाए, तो इनमें से एक भी व्यक्ति आपको किसी भी सदन में देखने के लिए नहीं मिलेगा। इसलिए मैं ऐसा मानता हूँ कि यह सिद्धान्त काफी हद तक खोखला हो रहा है। मिनिमम कान्स्टीयूशनल प्रोवीजन को पूरा करने के लिए हाफ-हॉर्टेडली सरकार ने कदम उठाया है। आपको आश्चर्य होगा रिजर्वेशन के प्रिंसिपल को लेकर कितनी स्टेचुरी आर्गेनिजेशनस गवर्नमेंट आफ इंडिया के नीचे, स्टेट गवर्नमेंट्स के नीचे, जिनके आर्टिकल्स एंड एसोसिएशन में रिजर्वेशन का एलीमेंट नहीं था। मुझे याद है, 1973 में मैं जब शैड्यूल्ड कास्ट्स और शैड्यूल्ड ट्राइब्स कमेटी का चेयरमैन था, तो हम लोग बम्बई गए थे। As the Chairman of the Parliamentary Committee for SCs and STs, I had been to Bombay to examine the situation in the Bombay Port Trust, which is the largest port of the country.

हमने बम्बई पोर्ट ट्रस्ट का मुआयना किया, तो उनके चेयरमैन ने हमसे कहा—

“Mr. Chairman, what are you looking for? We have no reservation in the services of Bombay Port Trust”

मैंने कहा—क्यों? आप क्या संविधान के अन्तर्गत नहीं हैं? वे कहते हैं— आप चलते होंगे कान्स्टीयूशन आफ इंडिया के अन्तर्गत, हम तो चलते हैं बम्बई पोर्ट ट्रस्ट के संविधान के अन्तर्गत। इसमें रिजर्वेशन का कोई सिद्धान्त नहीं है। यह मैं आपको 1973 की बात बताता रहा हूँ। उस वक्त संविधान को बने हुए भी 30-35 साल हो गए थे। मैं एक नहीं, ऐसी बहुत सी स्टेचुरी कन्फेरेंस का जिक्र कर सकता हूँ जिनमें एलीमेंट आफ रिजर्वेशन इन्ट्रोड्यूस ही नहीं हुआ है। यदि इसके पीछे कोई कानून रहता, तो कोई कारण नहीं था, चाहे बम्बई पोर्ट ट्रस्ट हो या कितने भी बड़े-बड़े कन्फेरेंस होते, उनमें एलीमेंट आफ रिजर्वेशन जरूर होता। ऐसे दर्जनों केसेज सुप्रीम कोर्ट में आए और हाई कोर्ट्स में आए हैं और उनको लिंगर कर रहे हैं। एक ऐसा केस भी है, नान इम्प्लीमेंटेशन आफ दि रिजर्वेशन पालिसी। अगर कहीं पिछड़े वर्ग के किसी कर्मचारी को जगह मिल भी गई हो, तो उसको चुनौती दी गई है और स्टे-आर्डर लेकर बैठ गए हैं। कई-कई साल तक स्टे-आर्डर वैकेट कराने की कोशिश नहीं की गई।

इसी तरह से एक मूल सिद्धान्त है—जस्टिस, सोशियल, इकोनोमिकल, और पोलिटिकल। इसमें यह ठीक है कि हमने रिजर्वेशन के सिद्धान्त को मानकर काम को करने की कोशिश की है और हमने उसको सोशियल जस्टिस का नाम दिया। सोशियल जस्टिस हम तब मानते हैं, जब सही मायनों में लैंड रिफार्म इन वर्ड्स एंड स्प्रिट इम्प्लीमेंटेशन होता। इस देश के अन्दर कितने प्रान्त हैं, जिन्होंने अभी तक लैंड रिफार्म के लिए माडल

एक्ट पास कर दिया हो। बहुत से प्रान्तों में भी अभी तक उसका प्रापर कोई एक्ट नहीं बना है। ऐसे बहुत से प्रान्त हैं, जहां लैंड रिफार्म ही नहीं मिलते हैं। बिहार एक ऐसा प्रान्त है, इसमें कितने ही किलोमीटर चले जाएं, आपको रिफार्म नहीं मिलेगा। जब रिफार्म ही नहीं है तो आप इसमें लैंड रिफार्म क्या करेंगे। इसी तरह से राजस्थान, मध्य प्रदेश, उत्तर प्रदेश—ये तो पूरे देश के हार्ट हैं, जहां ऐसी स्थिति है। इसलिए हम कैसे सोशियल जस्टिस को मान लें, जबकि सोशियल जस्टिस की ओर हमने कदम नहीं उठाया है। बाबा साहेब अम्बेडकर जी की ही वजह से रिजर्वेशन का प्रावधान हुआ और उसको रिजर्वेशन को सोशियल जस्टिस का नाम दे दिया Liberty of thought, expression, belief, faith and worship इस सिद्धान्त का सदुपयोग की जगह दुरुपयोग बहुत हुआ है।

हमारे संविधान में लिखा है कि राज्य का अपना कोई धर्म नहीं होगा। साथ ही साथ अपने देशवासियों को धर्म का प्रचार करने के लिए, प्रसार करने के लिए पूजा करने के लिए पूरी छूट होगी। परिणाम यह हुआ कि आज इस देश के लिए धर्म जोकि लोगों को जोड़ने के लिए बना था, आज सबसे बड़ा खतरा हमारे देश में धर्म का नाम को गया है। कोई विकास का कार्य करना चाहें, मामूली सी सड़क भी बनाना चाहें, तो किसी न किसी कोने में किसी मस्जिद या किसी मंदिर या किसी गुरुद्वारे का हिस्सा आ जाता है, तो काम रुक जाता है। जबकि उन देशों में, जो कि माने जाते हैं कि नॉन सैकुलर हैं, अपने आप को धार्मिक देश मानते हैं, वहां पर हमने देखा है कि बड़े-बड़े ऐतिहासिक मोनुमेंट्स उठा दिए गए, क्योंकि उनको अपने देश का विकास करना था। हमारे देश में हालत यह है कि यदि आप मामूली विकास कार्य करना चाहें तो जरा सा भी धर्म का चिह्न आ जाए तो उस काम को आगे नहीं बढ़ा सकते हैं। इसलिए इस लिबर्टी का सदुपयोग होने के बजाए, दुरुपयोग हुआ है। आर्केलाजिकल डिपार्टमेंट ने कहा है यदि कोई सौ साल का खण्डर हो, तो हम उस को लिविंग रिलीजियस सैन्टर नहीं मानते हैं। उसको खण्डर की संज्ञा दी गई है। वहां केवल टूरिस्ट जा सकते हैं। वह खण्डर चाहे, पांच सौ साल पूरा हो या पांच हजार साल पुराना हो या कितने भी साल पुराना हो। लेकिन आज देश में खण्डरों को लेकर देश को बर्बादी के कगार पर लाकर खड़ा कर दिया गया है। आर्केलाजिकल डिपार्टमेंट ने सर्टिफिकेट दे दिया कि यदि सौ साल पुरानी इमारत हो तो उसको केवल टूरिस्ट सैन्टर कहा जा सकता है। धर्म के नाम से साम्राज्यिकता पनप रही है। चाहे भाषा को ले लें, तो भी यही स्थिति है। पूछा जाता है, पंजाब की समस्या की तो बहुत जोर शोर चर्चा क्यों हो रही है? कितने लोग जानते हैं कि पंजाब की समस्या कैसे शुरू हुई। माली मामूली बात थी, पंजाब की भाषा पंजाबी होनी चाहिए और उस पर एक बहुत बड़ा उपद्रव हो गया। पंजाबी हो तो शायद मान लें, लेकिन पंजाबी की स्क्रिप्ट क्या होनी चाहिए, इसके ऊपर विवाद शुरू हो गया। यह कहा गया कि इसकी देवनागरी स्क्रिप्ट की जाए। उसकी अपनी प्रमुख स्क्रिप्ट है। पंजाब का मसला स्क्रिप्ट से शुरू हुआ था। पंजाब के कुछ लोगों ने कहा कि हमारी भाषा की स्क्रिप्ट है, उसमें लिखेंगे। एक वर्ग ने उसका विरोध किया। उसके बाद सैन्सस हुआ और उसमें भारी बेईमानी हुई। मुझे याद है जब मैं संसद में पहली बार चुनकर आया था तो प्रो० हरिन मुखर्जी ने प० नेहरू के सामने सैन्सस की रिपोर्ट पढ़कर सुनाई थी कि पंजाब के लोग पंजाबी बोलते हैं। उनको एक शब्द हिन्दी

का बोलना नहीं आता। वे पंजाब में कहते हैं कि हमारी मातृभाषा हिन्दी है। उसकी जांच करवाई गई और उस 1961 की सैन्सस की रिपोर्ट को नहीं माना गया। उसको इस सीमित कार्य के लिए रिजेक्ट कर दिया गया क्योंकि लोगों ने बेईमानी से उसकी रिटर्न भेजी थी। भाषा चूंकि आम नागरिक की सुविधा के लिए होती है वह भी धर्म का वैकल्प बन गई। पंजाब ने समझा की हमारी भाषा पंजाबी है और उस पर अनप्रिसीडेंटेड मोर्चा लगाया। उसके बाद धर्म में आ गए, फिर गुरुद्वारे में आ गए और उसके बाद ए के-47 पर चले गए। अगर हमारे संविधान को स्थानीय लोगों ने समझा होता कि यह बात इतनी साधारण है तो उस वक्त घोषणा कर दी गई होती कि जैसे दूसरी भाषा की लिपि होती है तो उस लिपि के मुताबिक पंजाबी भाषा की लिपि को मान लिया जाता और भाषा के आधार पर पंजाब का पुनर्निर्माण कर दिया जाता। यह पहली बार देखा गया कि स्टेट रिआरगेनाइजेशन कमीशन के अंतर्गत टर्म्स आफ रेफरेंस तय हुआ कि पंजाबी स्पीकिंग एरिया को विलेज का यूनिट मानकर कंटीन्युटी का ध्यान रखा जाए। एक ऐसा प्रांत बनाया जाए कि जिसकी भाषा पंजाबी हो। यह बड़ा साधारण सिद्धान्त है जिसको आम आदमी समझ सकता है। जैसे ही इस सिद्धान्त को लेकर हम जरा पहाड़ की ओर बढ़े और जब कालका की ओर पहुंचे तो टर्म्स आफ रेफरेंस को बदल दिया गया। "Without any fear of contradiction, perhaps, it is one of the peaceful States." नतीजा यह हुआ कि चंडीगढ़ से मुश्किल से 15-20 किलोमीटर ऊपर जाकर टर्म्स आफ रेफरेंस बदला गया। वह पंजाबी स्पीकिंग एरिया दिल्ली स्टेट को दिया गया। इस प्रकार का संविधान का जो हमने व्यवहार किया, उसका नतीजा हम भुगत रहे हैं। उसके बाद एक भाषा को लेकर एक समुदाय के लोग थोड़ी सी जगह पर इकट्ठे हो गए। यदि भाषा को बुनियाद मान लिया जाता तो तमाम पंजाबी स्पीकिंग लोग उसमें रहते और एक समुदाय के लोगों को यह नहीं मिलता तो वे आतंकवाद का सहारा लेते। पंजाब में जो कुछ हो रहा है वह देश की एकता और अखण्डता के लिए खतरनाक है। मैंने उसमें अपना रोल अदा किया है। मैं उसके सख्त खिलाफ हूँ। मैं नहीं चाहता कि देश के किसी हिस्से में आतंकवाद का सहारा लेकर देश को खण्डित किया जाए। परन्तु, जब हम अपने संविधान के व्यवहार की बात करते हैं तो हमें इन चीजों में जाना पड़ता है। मुझे बहुत समीप से अपने संविधान के व्यवहार को देखने का मौका मिला है। हम अपने संविधान के लैटर और स्मिट को पकड़कर अपने देश के आंतरिक मुद्दों का व्यवहार संचालित करना चाहें तो हमारे संविधान में लचीलापन है और एडजस्टमेंट करने की आवश्यकता है। हमारा संविधान हर प्रकार की परिस्थिति का सामना कर सकता है। मगर दुख इस बात का हम लोग अपने संविधान को संकीर्ण राजनीतिक मुद्दों के लिए इसका व्यवहार करते हैं तो वहां जाकर देश के हित का हनन होता है। जब पूर्वांचल क्षेत्र चाहे त्रिपुरा का प्रश्न था, जैसा माननीय स्पीकर साहब आसाम का जिक्र कर रहे थे, चाहे मिजोरम, मणिपुर या दार्जीलिंग का सवाल है और जैसा झारखंड की बात चल रही है तो हम अपने संविधान के लचीलेपन का फायदा उठा रहे हैं। मिजोरम में बीस साल से गोली चलती रही और भयंकर किस्म का आतंकवाद चलता रहा। काफी समय से मेरे पास जानकारी नहीं है। मैं सुन रहा हूँ कि आटोनोमस काउन्सिल के काम में सरकार की तरफ से मुदालखत हो रही है जिसकी वजह से प्रसीपिटेशन हो रहा है। नार्थ ईस्ट को वह ज्यादा से ज्यादा दे तो

उनका काम सरल हो जायेगा। पूर्वांचल के लोग बहुत ही सैल्फ रिसेपेक्टिंग लोग हैं। वे कानून की बारीकियों को नहीं जानते हैं। वे चाहते हैं कि उनके जीवन में कम से कम मुदालखत हो। वे चाहते हैं कि सातों स्टेट्स को संविधान के अंदर पूर्ण स्वतंत्रता दें। वे लोग किसी की मुदालखत बर्दाशत नहीं कर सकते। स्पीकर साहब ने अपने भाषण में कहा कि जहां तक संसद, असेम्बली या काउन्सिल का प्रश्न है, वहां डेमोक्रेसी आपरेट करें क्योंकि हमारे गांवों में इसका सीधा असर पड़ता है। संसद और असेम्बली के सामने जो विचाराधीन विषय आते हैं तो उनकी क्वालिटी काफी नीचे चली जा रही है। गवर्नमेंट की तरफ से जो हमारे ग्रामीण क्षेत्र में जो लोक सत्ता है जैसे पंचायती राज है, लोकल बाडीज है, आटोनोमस बाडीज है, उनमें रुकावट पड़ी है कि दस-बीस साल से पंचायत और लोकल बाडीज का इलैक्शन नहीं हुआ। स्व० राजीव गांधी जी ने पूरे देश का भ्रमण करके यह फैसला लिया था कि पंचायत और लोकल बाडीज की सत्ता को पंच या सरपंच के हाथ में देंगे। एक बहुत बड़ा क्रान्तिकारी कार्यक्रम था। उन्होंने एक कानून संसद के सामने पेश किया। जिसके अंतर्गत सीधी सत्ता सरपंच, ब्लॉक डवलपमेंट, जिला परिषद में होगी। उन्होंने लोकशाही का केन्द्रीयकरण किया। आज स्थिति यह है कि कानून बीच में पड़ा है। उसमें गतिरोध पैदा हुई और अभी तक उसको पूरा नहीं कर सके हैं। जिन लोगों ने अपने आपको संविधान के लिए दिया तो हमने उन सिद्धान्तों के अनुसार संविधान का पूरी तरह व्यवहार कर दिया। जो सिद्धान्त हमारे संविधान में, हमारे संविधान के निर्माताओं ने और खासकर डा० भीमराव अम्बेडकर ने आखिरी दिन कांस्टीट्यूशनल असेम्बली में पेश किये उनके जो क्लोजिंग रिमार्क्स हैं उनका भी मैं थोड़ा सा उल्लेख करूंगा। उनको उल्लेख करते हुए मैं कहना चाहता हूँ कि जो उन्होंने कहा था कि जो लोकशाही है, लोकतंत्र है यह तभी सार्थक हो सकता है यदि लोकतंत्र में हमने जो संविधान में सिद्धान्त अंकित किये हैं उनका पूरी तरह से इम्प्लीमेंटेशन करें। उन्होंने प्रोफेटिक शब्द कहे

"On the 26th January, 1950 we are going to enter into a life of contradiction. In politics, we will have the equality and in social and economic life, we will have inequality. In politics, we will be recognising the principle of one man one post and one vote and one value; and in our social and economic life, we shall, by reason of our social and economic structure, continue to deny the principle of one man one value."

उम वक्त भी उन्हें अनुभव हो गया था कि जिन मूलरूप सिद्धान्तों का उल्लेख मैंने प्रिम्बल के रूप में किया है ये जब व्यवहार के लिए उभरेंगे तो इनका विरोध या कांटीडिक्शन जरूर होगा। क्योंकि वे जानते थे जिनका मैंने उल्लेख किया है उनका आज हमारे समाज में अभाव है, जब हम

इनको सार्थक करना चाहेंगे तो समाज की ओर से इनका विरोध होगा। यह एक सैल्फ कंट्राडिक्शन की बात उन्होंने की है

“How long shall we continue to deny? For long, we will do so only by putting our political democracy in peril. We must remove this contradiction at the earliest possible or otherwise those who suffer from inequality will blow up the structure of political democracy, which this Assembly has so labouriously built up.”

कितने सार्थक शब्द हैं वन मैन वन वोट हो गया, लेकिन क्या वन मैन वन वेल्यू भी हुआ है। आज कितने ऐसे क्षेत्र हैं जहां दलित वर्ग, अनुसूचित जाति के लोग, पिछड़े लोग, अनपढ़ लोग रहते हैं, लेकिन वोट के समय उन पर ध्यान दिया जाता है। मैंने खुद जाकर कितनी ही पंचायत नहीं देखी हैं, मैं महात्मा गांधी के जन्म स्थान के प्रांत में गया। वहां मैंने पंचायत घर को देखा, सारी व्यवस्था देखी। उस गांव के चुने हुए पंच जो स्वर्ण जाति के थे वे अन्दर तक जा सकते थे, लेकिन जो अनुसूचित जाति के लोग वे पंचायत घर के अन्दर नहीं जा सकते थे। वहां मीटिंग होती थी, फैसले लिये जाते थे, किताबों में लिखा जाता था, लेकिन अनुसूचित जाति के लोगों को द्वार के बाहर बैठाया जाता था और सारा काम समाप्त होने के बाद चपरासी के हाथ रजिस्टर भेजा जाता था बाहर ताकि वे लोग उसमें अपने दस्तखत कर सकें। जिससे उनके भी दस्तखत ले लिये जायें। यह मैं आजादी के बाद वाले देश की बात कह रहा हूँ। इसी तरह जामनगर में एक ऐसा अस्पताल था जिसमें गुजरात प्रदेश का पहला डाक्टर जो अनुसूचित जाति से था उसके हाथ से लिखी हुई प्रिस्क्रिप्शन ऊंची जाति के लोग लेते नहीं थे, दवाई लेते नहीं थे। मजबूर होकर डाक्टरी की जाब छोड़ कर वह डाक्टर प्रोफेसर की जाब में चला गया। सौभाग्यवश वही आदमी आज गुजरात का हेल्थ मिनिस्टर है। बाबा साहेब ने इसका जिक्र करते हुए कहा

“Baba Saheb was one of the ardent constitutionalist; he was not only framer of the Constitution.”

यह उनके उस वक्त के शब्द हैं, जैसे आज उन्होंने कहे हों। क्या कारण है आंध्र प्रदेश के पिछड़ी जाति के लोग, दलित वर्ग के लोग हथियार उठा रहे हैं, बिहार में ये लोग हथियार उठा रहे हैं।

“Either we are a Federation or Union of States.”

उनके जीवन का जो एक-एक पहलू है उसमें कांस्टीट्यूशनलेटी पर बल दिया है। उन्होंने मंत्री न रहने पर भी अपने देश का नेतृत्व किया, कहीं भी उन्होंने लोगों को वायलेशन की प्रेरणा नहीं दी। उन्होंने कहा कि जो कांस्टीट्यूशनल मेथेड है आप शिक्षित होकर उसके लिए संघर्ष करो। आज जहां एक तरफ साम्प्रदायिकता है, एक तरफ कट्टरपंथी विचार, फेडरेशनलीज्म बढ़ रहा है और पिछड़े हुए लोगों के अन्दर रोष पैदा हो चुका है क्योंकि संविधान को सबवर्ट किया गया है। जो साधन सम्पन्न

लोग हैं, जो वेस्टेड इंटेरेस्ट वाले हैं वे इसमें बाधा डालेंगे। इसलिए देश में समता पैदा करने की आवश्यकता है। यदि देश में अन्याय बढ़ता गया, असमानता बढ़ती गई तो इन गरीब वर्गों के लोग हथियार उठाने के लिए मजबूर होंगे। आज सरहद के पार से जो उनको सहायता दी जा रही है और उनको भड़काया जा रहा है उसकी वजह यह है कि वे चाहते हैं कि हिन्दुस्तान में अस्थिरता आये। इसके लिए वे इन गरीबों को हथियार दे रहे हैं। यदि इनको हथियार मिल जायेंगे, मिलिटेंसी इनके हाथ में आ गई तो हम भारत का और संविधान का तिरस्कार करने के लिए मजबूर होंगे। इसलिए आज सबसे ज्यादा जरूरी है कि कोई भी दल सत्ता में हो उसका यही काम हो कि हमारे देश के सिद्धांत, संविधान के सिद्धांत उसी रूप में उतार लिये जायें जिस रूप में डा० भीम राव अम्बेडकर जी ने, राजेन्द्र प्रसाद जी ने, जवाहर लाल नेहरू जी ने, सरदार पटेल जी ने अंकित किया था। बड़ी चर्चा हुई Either we are a Federation or Union of States. मैं आडवाणी जी से पूछ रहा था कि यूनीयन आफ स्टेट्स की बात कर रहे हैं किन की बात कर रहे हैं, जब संविधान सभा थी उसका अपना स्ट्रक्चर आज के अनुकूल नहीं था, उसके सदस्य लोकमत से चुनकर नहीं आये थे, वे विभिन्न राज्यों, प्रोविंसीय के प्रतिनिधि थे इसलिए वे प्रोविंसेज की बात करते थे, मगर उस समय कौन सी प्रांत थी। यदि हम राज्यों की बात करते हैं तो वे 565 थीं, जिनका उल्लेख श्री ईश्वर जी ने किया है। वे कहां थीं, वे तो भारत की एकता में विलीन हो चुकी हैं, वे तो रियासतें थीं। जैसे देश की विभिन्न नदियां हिन्द महासागर में जाकर खत्म हो जाती हैं, उनका अस्तित्व नहीं रहता है वैसे ही उनका हाल हुआ है। इसलिए वे प्रतिनिधि जिन प्रोविंसेज से आते थे उसी की बात करते थे, कहां हैं वे लोग आज। बम्बई स्टेट हुआ करती थी उससे कितने राज्य बन गये, आंध्र प्रदेश राज्य से कितने राज्य बन गये, मद्रास से भी तीन राज्य बन गये। मैंने स्वयं इस संविधान का संचालन करते हुए इस बात का अनुभव किया है कि इन नामों में कुछ नहीं रखा है कि यूनीयन ऑफ स्टेट है या फेडरेशन। सही मायनों में भारत का एक अस्तित्व है। संविधान का एक एक शब्द, एक एक धारा, एक एक चैप्टर अगर जिक्र करता है तो एक यूनिट की बात करता है—“इण्डिया इज दैट इज भारत”। कहीं भी आपको अलग स्टेट का जिक्र नहीं मिलेगा। स्टेटों की सुविधा के लिए जो भी यूनिट बनाये हैं, ये स्टेट बने हैं। अगर यूनीयन है तो भारतीय स्टेट्स ने बनाया है। यदि मान लिया जाय कि फेडरेशन है तो किस ने बनाया? स्टेटों ने बनाया। मगर वस्तुस्थिति यह है कि आज जितनी भी हमारी स्टेट्स हैं, 25-26 हैं, वह यूनीयन ने बनायी, पार्लियामेंट ने बनायी। उसका फैसला तो पार्लियामेंट में हुआ। बंगाल हो, पंजाब हो, आन्ध्र प्रदेश हो या असम हो, फैसला तो पार्लियामेंट ने किया। आपने देखा कि आर्टिकल-3 में कितनी विशाल पावर्स दी गयी हैं यूनीयन को। वह स्टेट्स के आकार को बदल सकती है, उनकी सीमायें कम/ज्यादा कर सकती हैं, उसके अस्तित्व को बढ़ा/घटा सकती हैं। मौका पड़ने पर बड़ा या छोटा कर सकती है। इसकी सांस्कृतिक धरोहर और भाषायी धरोहर हमारे लोगों के लिए गौरव पैदा करने वाली है। आज भाषायी धरोहर को लेकर कर्नाटक में नान-कन्नड को नौकरी नहीं मिलती। महाराष्ट्र में भी ऐसा कानून पास करने की कोशिश की जा रही है। कि वहां भारतीय जाकर अपने को प्रवासी महसूस करें। हमें इस भावना का त्याग करना चाहिये तभी हम सच्चे अर्थों में भारत माता के सच्चे सपूत कहला सकेंगे। यदि वह हमारा हृदय है तो

हमारी स्टेट्स शरीर के अन्य भाग हो सकते हैं। यदि उसकी गति रुक गयी जिसको हृदय कहते हैं तो यूनियन क्या करेगी? We must nourish India. India is one. Citizenship Constitution is one. हमें मल्टी-नेशनल, मल्टी—रेशियल-सब बातें छोड़कर अपने आपको सीधा-सादा भारतीय मानना चाहिये। भारत माता का नागरिक मानकर अपने संविधान को सर्वोपरि मानकर अपनी भाषा, धर्म और वर्ग तथा निजी विकास का स्रोत मानकर चलना होगा तभी हम अपने संविधान के अन्दर दिये गये जितने भी प्रोसेस हैं, उनका कार्यान्वयन कर सकेंगे।

इन्हीं शब्दों के साथ मैं अपने वचन की समाप्ति करता हूँ और उम्मीद करता हूँ कि मान्यवर participants will give their valuable suggestions.

Shri P. Upendra, Former Union Minister: Mr. Chairman and colleagues, I am a little confused after the Key Note Address by the Chairman. While I tend to agree with him that there has been a wide gap in the precept and practice as regards the achievement of social justice and in regard to the implementation of the Fundamental Rights and the Directive Principles, at the same time, I beg to differ with him with regard to the concept which he has espoused about the Union and the States.

There was nothing wrong in the Constitution. The Constitution has been well-drafted. The Founding Fathers had taken a number of points from the various Constitutions of the world, and the best possible Constitution had been adopted. But, since then, several distortions had taken place, in the working of the Constitution. These distortions, in my view, are more prominent in the field of Centre-State relations. And unless we rectify those distortions, as soon as possible, I am afraid, we may have to face the same situation in this country as the mighty Soviet Union has faced and Yugoslavia is facing.

I do not want to go into the question whether India is a federal State or a unitary State. But the Chairman has given his own interpretation but I beg to draw his attention to what Dr. Ambedkar himself has said. While Constitution is one moving the Draft Constitution to be taken into consideration. Dr. Ambedkar had said:

“The Draft Constitution is a federal constitution in as much as it establishes what may be called a dual polity. This dual polity in the proposed Constitution will consist of the Union at the Centre and the States at the periphery each endowed with sovereign powers to be exercised in the field assigned to each respectively by the Constitution.”

This is from the Constituent Assembly debates.

The founding fathers were clear in their conception

of what is Union and what are the States. Therefore, for us to give a different interpretation at this stage, today, may not be correct. It may be contrary to the views of the founders of the Constitution. India had, in the past four decades, tried to, at the instance of the Centre, replace the federal polity with strong unitary overtones. That is the first distortion which I want to point out.

I also do not differ with the Chairman when says that we want a strong Centre. But I must also ask a question how a strong Centre can be there without strong States? How can there be a strong body without strong limbs? Both are necessary, both strong limbs and a strong body. We should remember that for a strong Centre strong States are necessary.

In a federal or quasi-federal polity like India, sharing of powers and resources between the Union and the States on an equitable basis is essential. But the trend has been, in the past, towards overcentralisation and unconstitutional usurpation of powers by the Centre. There were several articles, starting with Article 162 to 370. Number of emergency powers are there. They were specially designed to meet certain contingent situations arising now and then and for keeping the country united. But, in actual practice, the ascendancy of the Union over the States has been carried forward far beyond the original ideas in the Constitution because of the policies of the Centre. And this happened because of the Centre's power of purse, the centralised planning and licensing, the use of the central bureaucracy and the All India Services and misuse of the office of the Governor.

The second distortion, which took place, in my view, is in the use or misuse of the office of the Governor and Article 356. The Sarkaria Commission had made specific recommendations in regard to Article 356. I do not want to deal with it within the short time available. They have made very specific recommendations. They also said in what contingencies Article 356 can be used. The Commission listed 11 categories of cases where imposition of President's rule would be manifestly proper. They had also recommended that the Governor's report should be a speaking document containing a clear and precise statement of all material facts and grounds on the basis of which the President may satisfy as to the existence or otherwise of the situation contemplated under Article 356.

The Sarkaria Commission made several recommendations about the appointment and powers of the Governors also. The Commission made very

elaborate recommendations and the Committee of Governors had defined the scope of the Office of the Governor. I quote from the Report of the Committee of Governors:

“Under the Constitution, just as the State is a unit of the federation and exercises its executive powers and functions through a Council of Ministers, responsible to the legislature and none else, the Governor, as a head of the State, has his functions laid down in the Constitution itself and, in no sense, is an agent of the President.”

But have we adhered to this interpretation of the Governor? And the Governors are being used and were being used as the agents of the Centre. We had seen the result also in various States how the elected States Governments were dismissed by the Governor. We have been seeing the crisis in several North-Eastern States now.

In spite of the passage of four to five years, the recommendations of the Sarkaria Commission have not been implemented. That should be the first demand of this Seminar that at least the agreed recommendations of the Sarkaria Commission must be implemented forthwith.

Another distortion that has taken place is in regard to the legislative powers of both the Union and the States. The concept of the Union and the States had been eroded, in the process, List I and List III under Article 245 of the Constitution. List III can be enlarged by transfer of subjects from the State List to the Concurrent List under Article 252. If you look at List I and List III, as they were in 1950 and as they are now, it reveals the extent of erosion of the powers of the States by a grasping Centre. States have been reduced to a state of dependence and mendicacy.

Even in regard to all-India services, there has been some distortion because the disciplinary powers have been kept with the Centre. Many times it has been found that those who did not carry out the orders of the State Governments have been accommodated by the Centre or an assurance to that effect has been given by the Centre whenever the State Governments wanted to take disciplinary action. As a result, they have been flouting the orders of the State Governments, with impunity.

Another thing is about the Inter-State Council as a balancing force, as a link between the Union and the States. Article 263 provided for an Inter-State Council. After so many years, after four decades, it

has ultimately been constituted. I do not think, it has started functioning. This should be the demand of this Seminar that the Inter-State Council must start functioning with the objectives which have been envisaged for it.

Then, in the judicial sphere also, whatever has been envisaged in the Constitution has been distorted. Today, the transfer of judges, the system of promotion of judges are the things which, if you take into account, you will find that judges are working under constant fear and it has eroded the independence of judiciary, which is another gap between the precept and practice as far as our Constitution is concerned.

Then take the financial powers. Shri Advani has pointed out that the Centre has got elastic buoyant source of tax revenue and non-expandable resources have been left to the States. Whether it is corporate tax or additional excise duty or the increase in the administered prices, States have been denied their rightful share.

There is no mention about the Planning Commission in the Constitution. Today, if you seem enormous powers are being enjoyed by the Planning Commission, something of an order of 70 per cent of the resources of the Union. It is amazing to see that the States have to come to the Planning Commission for small things and things are lying with the Planning Commission for decades together. In spite of the rise in the support share, States still feel that powers remain with the Planning Commission. In the case of the share of royalty to the States on minerals, petroleum and natural gas, the States are denied their legitimate rights. When it comes to natural calamities, assistance has to be given to the States. But again there is distortion. Whatever has been legitimately due to the States for that also, the States have to come and beg repeatedly here. All along, the effort has been to make States dependent on the Centre for their finances. But the country's unity and integrity cannot be upheld by using the Union's power of purse as a leverage. Take the industrial licensing. Of course, after liberalisation, the situation has changed to a certain extent. If you see the Industries (Development and Regulation) Act of 1951, all the industries are included in that. You can see to what extent the erosion has taken place and how the States' powers have been usurped by the Centre.

In regard to clearance of projects submitted by the States, for decades together these are lying with the Centre for no reason. Even for cutting a tree or

removing a graveyard, State Governments have to come to the Centre. This was not the concept which was envisaged in the Constitution. This is pure distortion of the Constitution. What for are these large number of centrally-sponsored schemes? If you want to help the States, if you want to help the poor people, why can't you allot that money to the States and ask the State Governments to implement those schemes? Why should there be so many centrally-sponsored schemes? That is also another thing which is not envisaged in the Constitution.

Then about the panchayat bodies. We have included it in the State List. But steps have been taken to impose a uniform system of Panchayatiraj on various States. It is not envisaged in the Constitution. We are trying to introduce another tier also. A three tier system was not envisaged in the Constitution. Panchayatiraj institutions are completely controlled by the State Governments and if you want to ensure their effective functioning, two or three aspects are required to be considered. Regular elections in every five years should be guaranteed. Then, devolution of financial powers from the States to the local bodies and safeguards against the arbitrary dismissal and supersession of the Panchayatiraj institutions. There should be a constitutional provision made only for the aforesaid items and the remaining powers be given to the States.

Then comes the delay in giving approval to various legislations passed by the State Legislatures. Why should they lie for years together in the Home Ministry or in the President's Office? Why should these Bills lie with the Centre for so many years when the State Legislatures have passed them? That also has to be looked into. What I want to say is that the situation is going out of control and sooner or later distortions have to be corrected. There is an experience of big countries. Unless we learn from them and rectify the defects, India also will have to face such situation in future.

Before I conclude I want to say that several seminars have been held in the past. Since this subject has been discussed umpteen number of times, what is the flow-up action? We record it and keep quiet and get a little publicity. What are the specific recommendations of this Seminar? My suggestion is, as Shri Advani hinted in the morning, we should recommend setting up of a constitutional committee to go into all these distortions and to remove the gap between the precept and practice, as far as Constitution is concerned, and suggest measures to rectify these things through suitable amendments to

the Constitution. That kind of step is urgently needed and we should build up public opinion on this matter. Otherwise, there is no point in organising this seminar, it is waste of public money, waste of time of the people.

I thank the three organisations for holding this seminar. It is a very good discussion on a very topical issue. I plead that we must have some follow-up on this after the Conference is over.

Shri Soli J. Sorabjee, *Former Attorney General of India* I will be short and I will only concentrate on some of the provisions which indicate how the assumptions and the beliefs of the founding fathers have not been realised; in fact have been belied. I think it is necessary to keep two things in mind. The constitution is the Basic Law for the country, it is not like Medicinal and Toilet Preparations Act in which you can put every detail imaginable. A Constitution sets out really the basic framework the structure and reflects the realms of the people. Therefore the one thing which the founding fathers believed and in fact that is what was Dr. Rajendra Prasad emphasized on the last day is that there are many things which we cannot put in the Constitution; but they will have to be developed and evolved by conventions. After all conventions are the unwritten maxims of the Constitution. The belief was that the conventions so evolved will carry out the intent of the framers.

Let me take three instances because they all bear on the very important question of Centre-State relations. I think much of the distortion that has occurred and in fact much of the alienation which we find in certain States is because of the imbalance or rather the faulty implementation of these provisions. Take for example article 356. It is my considered opinion that it is the most abused provision of the Constitution and there is no single party which can take exclusive credit for it or blame for it. The temptation to use this article has not escaped any party at the Centre. When this article was debated, founders had experiences of Governors' rule during British regime. Many of them did not want it. They said, what is this, we do not want this sort of a thing happening. But in the debates the founders assured that this was a provision of last resort. I remember the expression, "surgical operation would not be performed if one has a cold". It is only where the Constitutional machinery has broken down, an impasse is there and you have to really some recourse to it in order to help the State itself. You know much better than I do, to what extent this belief has been thoroughly belied, and made a mockery. I have some

experience; I have seen some of the Governor's reports.

Here again comes the role of the Governor. Often it is the Governor's Report which is responsible for the President's rule, which is the basis for the Presidential proclamation.

Take the Governor. Under the Constitution the Deputy Librarian of the Institute of Law can be appointed as a Governor provided he is 35 years old and is a citizen of India. But you do not go by *literary application of the provision*. Founders said, what we want is not only people of eminence and integrity; but people who are removed from the daily turmoil of party politics. We do not want people who are too intimately involved to use Munshi's words in 'provincial factions', to use Panditji's words in 'party politics'. So we will appoint people like academicians, people of eminence in the field of education, learning, or other disciplines. In the beginning the Raj Bhawan occupants did measure upto their expectations. Later on you have none but partisan politicians, burnt out politicians in the seat. What do you expect Raj Bhawan not to be but a hothbed of political intrigue? Again no one party is to blame. I am sorry to say this but this has been my experience.

Therefore if these conventions have not been evolved; the time has come now to think about what to do about them, whether to incorporate specific provisions in the Constitution. But I do not know how we can incorporate a provision in the Constitution saying that a Governor shall not be this or that. It has to be left to the sense of the people who work it.

Take the very important question of removal of the Governor. I want to tell you exactly what Baba Saheb said, Dr. K.T. Shah and various others said, look here, CAG, Chief Election Commissioner, even a Member of the Public Service Commission, leave aside the judges of the High Court or the Supreme Court and the President, none of these constitutional functionaries can be removed except for misconduct or proved misbehaviour after an inquiry. Can a Governor just be given a sack? Dr. Ambedkar said, "my dear friends, everything cannot be put in the Constitution. Why do you want to burden the Constitution? It is the immaculate premise, it is the silent assumption that the Governor would not be removed except for the grave violation of the Constitution. That was the belief. How far has that belief been realised? What is the actual experience? The actual experience is that if they do not carry out the dictates or the desire of the Centre, they are

removed with less ceremony and with less dignity than a class IV employee in Government service. Therefore I think it is necessary and now the time has come to expressly incorporate the grounds of removal of the Governor in the Constitution itself on the same lines as other Constitutional functionaries.

Article 356 I think it should be amended to make the Governor's report mandatory along with the President's proclamation. There is no question of providing for judicial review. The Supreme Court itself has said that like any excess of power, excess of power under article 356 is also subject to judicial scrutiny.

But there is another thing about which I feel very sorry. That is, what is happening in the Supreme Court. Ours is a Constitution which is unique, in the sense that for a breach of fundamental rights a citizen can directly approach the Supreme Court. He does not have to go to the High Court and other courts and then come up in appeal. Article 32 provides a very expeditious remedy. Dr. Ambedkar words are "If I were asked which is the most important part of this Constitution, it is article 25. It is the heart and soul of the Constitution; without this the Constitution would be a nullity." I am sorry to tell you that today the soul is withered, the heart has become flabby and needs more than one by-pass. Today the citizens' rights in the Supreme Court have not been adjudicated upon for years. What was to be an expeditious remedy has become really a teasing illusion. There are various reasons which I need not go into. But I think it is now high time that for enforcement of fundamental and constitutional rights, there should be a separate constitutional wing which will deal with this aspect alone.

There is another matter which I would like to bring to your attention. In the Philippines Constitution there is a provision that if the case reaches the highest court and it is not disposed of within two years, the court will record the reasons and inform Parliament and the people as to why that has happened. I know this suggestion will not please some persons who I have to deliver judgements; but I think the time has come when we have to think on these lines. One can understand delay in disposal because of tremendous increase in litigation but it giving judgements after the conclusion of arguments ranging from seven months to ten months to a year is incomprehensible.

These are the things which in my limited experience I want to put before you. Do not get the idea that the Constitution needs to be thrown

overboard. No. Basically it is good; it is a good canvass; it requires a little touching here and there. But what is really required is what you cannot get by any amendment; that is the right spirit of interpretation, the right and honest manner of implementation. That is something which is ultimately to be evolved by us and by our representatives of the people.

Thank you.

Shri D. Sripada Rao, Speaker, Andhra Pradesh Assembly: Mr. Chairman and friends:

The constitution of India, which came into force on January 26, 1950 with 74 amendments as on today, in the basic framework for the operation of the Indian political system, in a smooth and healthy manner so as to secure to its citizens liberty, equality, justice and thereby promote fraternity. The Preamble also established that the Constitution of India based on the philosophical foundation of Democracy, Secularism and egalitarianism. It reflects a philosophy of liberal democracy as is evident from the inclusion of fundamental rights in Part III and its inviolability, justifiability and enforceability through the independence of judiciary and the process of judicial review. The Indian Parliament is given a prominent place in the Law-making process. It is indeed a synthesis of American and British Constitutions for it seeks a reconciliation in between written constitution and parliamentary supremacy. Although it is described as the bulkiest document in the world, care was taken to avoid ambiguities and overlapping. In the process, the Constitution of India amalgamates, divergent and ideological spectrums of the world. Prof. Ivon Jennings while paying rich compliments remarks, "Indian Constitution is the finest Constitution in the world."

It is significant to mention that the concept Secularism was added to the Preamble through the 42nd Amendment Act, 1976. In fact, the Indian Constitution even earlier to this amendment unequivocally provided for secular State by ensuring the creation of a social order in which social equality would prevail ushering in political equality and justice. The Indian concept of secularism recognises the relevance and validity of religion in life seeking, as mentioned by Justice Gajendra Gadkar to establish a rational synthesis between the legitimate function of religion and the legitimate and expanding functions of the State. It is held by observers that Indian secularism is humane in nature. Articles 25 to 27 can be quoted in this regard to justify the point of view that the State does not identify itself with any

particular religion. The Indian citizenship has no relevance to the concept of religion. Our citizenship is based purely upon a secular idea. Apart from this, articles 29 and 30 emphasise cultural rights of minority which are the ample evidence of promoter of all religious groups who belong to the technical or religious minorities. Our Constitution confers basic freedom to all the citizens and therefore, no person other than a citizen can enjoy these guaranteed freedom, even though he may profess, practise and follow religion of his choice. Thus the concept of secularism makes explicitly clear that India is a secular State. Justice Krishna Iyer very aptly observes. Democracy and secularism are integral to political and constitution life of the people. In essence, democracy in a multi-religious and multi-cultural society like ours can develop only within a secular framework. Likewise secularism in the deeply religious Indian soil can flourish if strengthened by a democratic system. Thus, the addition of secular concept in 1976 to the Preamble strengthens our commitment to the cause of secular approach. However, it is found that the communal and casteist parties are trying to deface the secular concept. It is disturbing to note that the communal caste issues are being brought into our political process for electoral gains. Indian secular polity and democracy would be successful when secular parties participate in general elections and compete for political power. In the recently concluded 79th Congress—I Party Plenary at Tirupathi, our beloved Prime Minister, Shri P.V. Narasimha Rao in his presidential address said:

"Non-secular parties should have no place in the conduct of a secular democratic State. Any electoral contest between secular and non-secular parties clearly goes against the spirit of the Constitution."

Further he had emphasised the need for clearly defining secular parties so as to determine a recognizable criterion between a secular party and non-secular party. The Prime Minister desired a detailed public debate on this issue. It is paining to note that the communal parties though speak their commitment to secularism use communal and casteist symbols in order to wreck political system and disturb the very healthy integrated fabric of the country among citizens of all religious groups.

Similarly, unity and integrity is another laudable ideal of India's philosophical framework. It is significant to point out that in 1950 to 1976 and in recent times, several regions, sub-regional

education were initiated in several parts of India to sow the seeds of degeneration. Similarly India witnessed a few agitations in Bihar and Gujarat during 1975 to 1976 in the name of so-called total revolution to disintegrate the country. But such attempts were thwarted by the then vigilant Government and with the support of the enlightened public opinion. However, it is disappointing to note that the forces of communalism have once again raised their ugly heads since 1989 and now those are bent upon disturbing the unity and integrity of the country. They are using the religious symbols, mandirs, Mandals and even scrapping of article 370 and thereby create an element of chaos to the orderly systematic performance of India. In fact, such forces of communalism have been instrumental for the rise of the forces of balkanization with particular reference to Punjab, Kashmir and Assam. It is, therefore, in the fitness of things, we demand initiating a stringent policy measure to check the communal forces and the casteist political parties.

It is not out of place to mention that promulgation of ordinance under article 213 is a measure to meet certain institutions to be tackled when Parliament or State legislature is not in session. But it is heartening to not a small State of India, in a particular reference to a few regional parties which were in political power, had resorted to managing to State administration by ordinance raj. Therefore, there is a need to check such promulgations of ordinances which undermine the Legislature and the democratic process.

Lumpenisation and criminalisation of political parties is a highly disturbing trend in Indian democracy. Today the hijackers, smugglers and hard core criminals are not only entering politics but also getting elected to the legislative forums by virtue of their muscle power. Violence is gradually increasing.

Violence inside the legislature is a recurring phenomenon. The pandemonium and bedlam in the State legislatures are another notable phenomenon apart from defying the Speaker and obstructing the Governor's Address, fight inside with the securitymen, storming into the Speaker's podium, tearing budget papers and even assaulting the Speaker. Such actions of the legislators have brought a bad name to themselves as they throw all democratic norms to winds. It is,

therefore, necessary that stringent measures are required through the Constitution to check the rise of such viciferous elements.

Independent judiciary and its high dignity in a democratic polity is a pre-requisite. Unfortunately, in the recent past the judiciary has come under strong criticism for certain actions of Judges. The former Chief Justice of India, Shri E.S. Venkataramaiah publicly criticised the functions of judiciary in India. There is a need to initiate a few reforms to inject judicial accountability and also to enhance its reputation so as to give credibility to the judicial system which is the backbone of democratic structure.

Political defection is a menace to democratic system. The frequency of political defections on narrow selfish and political grounds was even increasing from 1960s to 1980s. Considering this malady, late Shri Rajiv Gandhi initiated the 52nd Constitution Amendment Act to check the political defections in India. The amendment Act still carries a few shortcomings which have surfaced in the recent past. Its misuse is continued in a few States of India. It is, therefore, necessary that the Act requires further modifications.

The Sarkaria Commission has suggested a few reforms to herald a healthy cooperative federalism in India. It make some specific recommendations, particularly relating to the office of the Governor, emergency powers, all-India services, Inter-Governmental Council, financial relations etc. It is therefore, evident that the Constitution requires some suitable modifications.

Pandit Nehru rightly commented that "The Constitution is living organism; it must grow and meet the challenges posed by changing conditions." In view of the rise of such unforeseen challenges, there is a need to consider in providing a few Constitutional provisions in view of the prevalence of a gap in between the precept and practice.

Shri Harcharn Singh Ajnala, Speaker, Punjab Vidhan Sabha: Mr. Chairman, I am so grateful to you that you have allotted me time to speak on this important subject—Constitution of India in Precept and Practice.

I have heard eminent jurists, judges, senior advocates, parliamentarians, eminent personalities and hon. Speakers from the various States speaking in flawless English and with the pronunciation of Oxford and Cambridge. We have all appreciated and enjoyed their expressions.

I have decided to speak in a commonly understandable language, which is a blend of Punjabi, Urdu, Hindustani and at times English too. So, I am sure, you will kindly allow me to speak in that manner.

जनाबे सदरे मोहतरम्, सोली सौराबजी, एमीनेट ज्युरिस्ट्स, मैम्बर पार्लियामेंट और बहनों और भाईयों। आज हम जिस सेमिनार में इकट्ठे हुए हैं और जिस सिलसिले में यह सेमिनार यहां पर अरेंज किया गया है, मैं सबसे पहले चेयरमैन साहब को मुबारकबाद रसमीतौर पर नहीं जज्बाती तौर पर पेश करता हूं। हमारे संविधान के निर्माता थे बाबा साहब आंबेडकर, और जो कुछ उन्होंने दिया हमें, वह मेमोरेबल डॉक्युमेंट है। पूरे वर्ल्ड में उसकी तारीफ होती है और ठाकुरदास भार्गव जी ने कांस्टीच्युशन का प्रिम्बल पढ़ा तो मजबूर होकर यह कहा "इट इज प्रीसियसज्यूल" हमको यह विधान मिला। यहां पर बातें बहुत हुई हैं कि विधान में कई कमियां हैं। इम्प्लीमेंटेशन की बात की गई कि यह ठीक तरह से नहीं हुआ। यह भी कहा गया कि कमेटी बनायी जाए और उसका रिव्यू कर दिया जाए। लेकिन मैं आपके जरिए उनसे यह पूछना चाहता हूं कि इस विधान के लागू होने के बाद, जो कि 1950 में हुआ, उस वक्त लोगों की दशा क्या थी और आज क्या दशा है क्या उसमें कुछ फर्क है। अगर फर्क है जो इस विधान ने काम किया है। अगर फर्क नहीं पड़ा तो इस विधान ने कोई काम नहीं किया। डवैलपमेंट अगर हुआ है तो इसका क्रेडिट विधान को जाता है। अगर लोगों की हालत बेहतर हुई है तो इसका क्रेडिट विधान को जाता है और जो बाबा साहेब विधानकार थे, उनको जाता है। इसको बनाने के बाद उसमें सारे गार्डिंग प्रिंसिपल्स दे दिए हैं। लेकिन सवाल यह होता है कि उनको इम्प्लीमेंट कौन करता है? बाबा जी ने अपने शब्दों में कहा कि विधान बुरा हो सकता है। लेकिन अगर उसको चलाने वाली अच्छी मशीनरी होगी तो उसमें से कुछ अच्छाई निकलती है। फिर यह भी कहा कि विधान अगर बहुत अच्छा होगा तो उसको चलाने वाले ठीक नहीं हैं। विधान में अच्छाई के बावजूद कुछ बुराईयां भी निकलेंगी। यह हम पर आता है कि हम विधान को कैसे चलाते हैं।

पांच साल बाद पंजाब में सरकार बनी है। श्री नरसिंह राव जी की मदद से और उनकी पैट्रोनेज पर अच्छे ढंग से इलैक्शन हुआ है यह काबिलेतारीफ है। किसी उम्मीदवार को कोई नुकसान नहीं हुआ जबकि पहले जो जून में इलैक्शन होने वाले थे उसमें 27 कैन्डिडेट मारे गए। मेरी यह रिक्वेस्ट है कि मैं सबसे लास्ट में बोल रहा हूं इसलिए पांच मिनट बोलने की शर्त को मेरे लिए हटाया जाए। मैं संविधान की बात करता हूं। उसमें देखिए कि उसमें क्या कमी है। इसके प्रिम्बल में ऐसी कोई चीज नहीं जो कि उसमें शामिल न की गई हो। प्रिम्बल के जरिए कांस्टीच्युशन हमने अपने आपको दिया है। अगर माइक्रोस्कोपिकली देखें तो यह बहुत बड़ी बात है। हमारे संविधान में सॉवरेन, सोशलिस्ट, सैक्युलर और डेमोक्रेटिक तथा रिपब्लिक भी है। हर सिटीजन के लिए सोशल जस्टिस यह प्रिम्बल शो करता है। वह जस्टिस पोलिटिकल और इकोनॉमिक भी है। दूसरा उसमें फंडामेंटल राइट भी है। मेरे पास आर्टिकल लिखे हुए हैं, मैं उनको कोट नहीं करूंगा। यहां पर मोअज्जि साहेबान बैठे हुए हैं, वे सब कुछ जानते हैं इसलिए मैं कोट नहीं करना चाहता। फंडामेंटल राइट हमको मिले हुए हैं। 42 वें अमेंडमेंट के साथ सिर्फ यह हुआ कि हमको फंडामेंटल ड्यूटी भी मिल गई। लेकिन इसको इम्प्लीमेंट कौन करे। इस

विधान के लिए एजेंसी मुकर्र कर दी गई। लेजिस्लेचर एक्जीक्युटिव और ज्युडिशियरी के लोग उसमें हैं और इसके अलावा पोलिटिकल पार्टीज हैं। अगर हम अपने स्वार्थ के लिए इसका काम शुरू कर देंगे अगर हमने ऐनक हरी लगाई हुई है तो सब कुछ हरा दिखाई पड़ेगा। अगर डीपली देखते हैं तो मेरे ख्याल में कोई ऐसी चीज नहीं है जिसके विधान में कोई प्रोविजन न किया गया हो। अब 1992 है लेकिन 42 साल बाद भी कोई काम नहीं होता है जबकि यह विधान 1950 में आया था। अमीर-गरीब, हैब्स-हैव नॉट्स, रूरल-अरबन के लिए जो काम होना चाहिए था, वह प्रापरली नहीं हो सका। सैक्युलरिज्म का असली मतलब यह है कि जैसे किसी ने कहा कि "खून अपना हो या पराया हो, नसले आदम का खून है, आखिर"।

अगर अपने किसी का खून होता है तो महसूस करते हैं कि हमारा शख्स मारा गया। अगर किसी और का हो जाए तो कोई महसूस नहीं होता। इसलिए एप्रोच मानवीय रूप से होनी चाहिए। पंजाब में जब आंधी आती थी तो बुजुर्ग कहा करते थे कि किसी जगह किसी न किसी का खून हो गया। आजकल रोज अखबार पढ़ते हैं कि पांच-सात आदमी मारे गए, सोचते हैं कि यह हो जाना था। इट इज ए पार्ट आफ लाइफ। एह एप्रोच गलत है। आप सोचिए कि बाबा साहेब ने जो कुछ सोचा था एक्जीक्युटिव एजेंसी ने उनका साथ नहीं निभाया। उसके बाद डिस्पेरीटी की बात करते हैं। सामाजिक न्याय की बात करते हैं। आपने ठीक कहा कि पंचायत घर में जो चुने हुए पंच थे जो दलित वर्ग के सदस्य थे वे वहां भीतर नहीं जा सकते थे, बाहर बैठे रहते थे। मैं यह पूछना चाहता हूं कि अगर हम डिस्पेरीटी में यकीन नहीं करते हैं सामाजिक न्याय में करते हैं तो उनकी धर्मशाला, बारात आदि के लिए गांव से दूर क्यों होती हैं, क्यों उनकी आबादी गांव से बाहर होती है, क्यों नहीं उनको गांव में ही जगह रहने के लिए दी जाती? इसलिए यह सब देखने की बात है।

शहर और गांव का अंतर है। मेरा एरिया बोर्डर का एरिया है जिसमें अजनाला पड़ता है वहां से मैं आता हूं वहां पर स्कूलों में कोई अध्यापक नहीं जाता। पहले तो पोस्टिंग ही नहीं होती अगर होती है तो कोई पहुँचता ही नहीं अगर उन बच्चों का शहर के बच्चों से मुकाबला करेंगे तो किस तरीके से वे उनसे कम्पिट कर सकेंगे। वे बच्चे क्या करें, जिनको कुछ नहीं मिलता। वे महसूस करते हैं कि हम पर सरकार का उतना फोकस नहीं है जितना शहर के बच्चों पर है। इसलिए यह चीज दूर होनी चाहिए।

मैं इकबाल शायर का यह शेर यहां सुनाना चाहता हूं:

"मस्जिद तो बना दी पल भर में इमां की हारत वालों ने
मन अपना पुराना पापी था, बरसों में नमाज़ी बन न सका"

धर्मनिरपेक्षता की बात करते हैं, वह है ही नहीं। हमारे अन्दर क्या है यह हम ही जाते हैं। चालीस साल से ऊपर का अर्सा हो गया है, मैं समझता हूं यह कोई समय छोटा नहीं है। हमें संविधान का रिव्यू करने के लिए एक कमेटी बनानी चाहिए जो रिसर्ज करे कि इम्प्लीमेंटेशन कहां फेल हुआ, क्यों फेल हुआ, किस चीज की कमी है।

दूसरी बात मैं यह अर्ज करना चाहूंगा कि राज्यों को रीआर्गेनाइज किया जाये। ऐसे राज्य हैं जिनका प्रशासनिक रूप से प्रभाव जाता रहा है। बड़ी-बड़ी स्टेट्स हैं उनका प्रशासनिक प्रभाव बनाने के लिए उनको छोटा

करना चाहिए। जब तक हम लोगों की इसमें एक्टिव पार्टीसिप्शन नहीं होगी उस वक्त तक काम ठीक नहीं चलेगा। ब्यूरोक्रेसी को हमें दुरुस्त करना चाहिए। क्योंकि मेन जिम्मेदार वहीं है विधान को चलाने की, अगर वे ठीक तरह से नहीं चलेगे तो देश भी वहीं नहीं चलेगा।

आरक्षण की बात आती है। अनुसूचित जाति के लोगों की बात भी यहां आई है। उनके लिए साधारण आरक्षण काफी नहीं है। उनकी हालत ठीक करनी चाहिए, उनके साथ भाई-भाई का रिश्ता कायम करना चाहिए, उनको और सुविधायें मुहैया करानी चाहिए। इनमें कुछ लोग इस स्तर पर आ गये हैं जो हैक्स हैं, हैक्नाट्स नहीं कहे जा सकते। इसलिए रिजर्वेशन देते समय हमें यह ध्यान रखना होगा कि ऐसा न हो कि एक आदमी अगर आई०ए०एस० बन जाता है तो उसका लड़का या लड़की भी आई०ए०एस० हो जाये और तब भी वह कहे कि मेरे साथ भी वही व्यवहार होना चाहिए जो अनुसूचित जाति के अन्य लोगों के साथ या दलित वर्ग के अन्य लोगों के साथ होता है। आप गांव में देखें कि उनकी क्या स्थिति है। जो शहरों में बैठे हुए हैं उनका क्या हाल है यह भी देखें।

राज्य और केन्द्र में झगड़ों की बात भी यहां आई। यहां पर कहा गया कि इनमें पती-पत्नी का रिश्ता है। यह बड़ा टेढ़ा रिश्ता है। छोटा भाई और बड़े भाई का रिश्ता तो मैं मान सकता हूं। मैं यह जरूर चाहूंगा कि सेंटर स्टेट रिलेशन में भी परिवर्तन हो। इसलिए इसको आप जरूर देखें।

यहां पर खालिस्तान की बात कही गई। मैं कहना चाहूंगा कि खालिस्तान पंजाबियों की मांग नहीं है। अगर एक मुट्ठी भर आदमी यह बात करते हैं तो उससे इतना परेशान नहीं होना चाहिए। यह अलहदा बात है कि जो कमियां हैं उनको दूर करना चाहिए। उनकी हालत बेहतर बनाने के लिए काम करना चाहिए, लेकिन यह ज्यादा पेनिक की बात नहीं है। हर पंजाबी समझता है कि हम हिन्दुस्तान के साथ हैं, यही ठीक है। जिस दिन विभाजन हुआ था उस दिन पंजाब की भूमि खून से लथपथ हुई थी। जो लोग पाकिस्तान से यहां आये थे वे खून से लथपथ थे इसलिए आये थे कि वे कह रहे थे कि हिन्दुस्तान में जायेंगे वहां अपने भाईओं से मिलेंगे और वहीं बसेंगे। उनके भाई-बंद वहां रहते हैं, उनका जीवन वहां से बेहतर होगा। जब चण्डीगढ़ बना तो मैंने एक दफा स्व० इन्दिरा जी से कहा था वे अब हमारे बीच नहीं हैं, हमारी बड़ी नेता थीं मैंने कहा कि आप चण्डीगढ़ के मुत्तलिक क्यों शर्त लागते हो? I told her, Your revered father was very sweet and when he saw that Punjab was bleeding, he gave us this beautiful city Chandigarh in place of Lahore as such why conditions? Then she just smiled. तो इस वास्ते कई चीजें हो रही हैं। पंजाब में वातावरण पीछे बड़ा खराब रहा है लेकिन जब से श्री बेअत सिंह की सरकार आयी है वहां हर फ्रंट पर काम हुआ है, डवैलपमेंट भी हुआ है, उन्होंने लॉ एण्ड आर्डर भी देखा है। सब काम ठीक चल रहा है। फिर भी आप सब के पैट्रनेज की जरूरत है। It is still in its infancy. So, this type of patronage and assistance is required.

उसको इस्टेबलिश करने में आपका हाथ होगा तो पंजाब दिन दूनी रात चौगुनी तरक्की करेगा। जब पंजाब का बंटवारा हुआ तो ईस्ट पंजाब में अनाज डेफिसेट था लेकिन अब यह सारे हिन्दुस्तान को अनाज देता है।

अभी बाहिर के मुल्कों से अनाज मंगवाने की बात चल रही है। अगर आप पानी की बाबत मदद कर देंगे तो other countries will come to us with a begging bowl for foodgrains.

इन बातों के साथ मैं आपका शुक्रिया अदा करता हूं कि आपने मुझे समय दिया और उसकी कोई लिमिट नहीं रखी। आपकी बड़ी-बड़ी मेहरबानी।

Mr. Chairman: May I now request Shri Yudhisthir Das, Speaker of the Orissa Legislative Assembly to speake?

श्री युधिष्ठिर दास, अध्यक्ष, उड़ीसा विधान सभा: आदरणीय चेयरमैन महोदय और दोस्तों, आज जो संगोष्ठी यहां हो रही है, वह भारत के संविधान के सिद्धान्तों और कथनी व करनी को लेकर हो रही है। इस संदर्भ में मेरा एक नोट सर्कुलेट हो गया है। मैं अहिन्दी भाषी इलाके का नागरिक हूं, लेकिन हिन्दी का पक्षधर हूं। मैं हिन्दी ठीक ढंग से बोल नहीं पाता इसीलिये अंग्रेजी में मैंने अपना नोट प्रस्तुत किया। फिर भी दोहराता हूं कि मैं हिन्दी का पक्षधर हूं।

सभापति महोदय: आपका हम स्वागत करते हैं।

Shri Yadhithir Das: It is already more than forty years our Constitution is in operation. It is time to take stock of what has been achieved over these years in the light of the ideals which the Constitution embodies.

There is no denial that we have made significant achievement in many areas. We have been able to overcome the chronic food shortage and the miseries that followed. Recurring famine and floods have been controlled to to a very large extent. Rate or mortality among the people has been reduced and the longevity has increased. In this vast country of diversities, the change over from feudal economy though slow, is perceptible and steady. In matters of education, our achievement is no less significant and we have the largest concentration of scientific and technical manpower. Most significant of all is our ability to sustain growth of democratic institutions.

Yet we find ourselves in the midst of crisis. Fifty per cent of our population are below the poverty line. Our promise to secure to every citizen the access to adequate means of livelihood remains a distant dream. The distance between the rich and poor is increasing.

Our promise to provide within a period of ten years from the commencement of the Constitution free and compulsory Education for all over children within the age of fourteen years remains largely unrealised, even after forty years of the commencement of the Constitution. The situation has on the other hand, worsened by the kind of education we provide to our children in different

types of schools: Basic Schools, General Schools and English Medium Public Schools. Clearly the standard of Education imparted in these schools is not the same nor is the outlook they breed the same. This is a glaring denial of equality of opportunity to the children. The inequality in the educational standard and the difference in the outlook they create have serious consequences for the society at large. It is time to prescribe uniform syllabus and one type of schools in order that equal opportunity is provided to all children, rich or poor.

We also made a commitment with regard to official language and made provision for replacement of English by Hindi.

Continuance of English as the official language beyond fifteen years after the commencement of the Constitution not only contravenes the Constitutional commitment, but allows English language to enjoy the pride of place in our public life. This encourages many parents to send their children early to the English medium public schools where education in mother tongue is neglected. The mushroom growth of English Medium Schools is there for all to see. Its impact on our social and cultural life is not good.

It appears, our political leaders encourage the spread of English in total disregard of what Mahatma Gandhi said of its baneful effect:

“The Foreign Medium has caused brainfag, put an undue strain upon the nerves of our children, made them crammers and imitators, unfitted them for original work and thought, and disabled them for filtrating their learning to the family or the massess. The Foreign Medium has made our children particularly foreign in their own land.” Elsewhere he has also said, “As a result of English being the medium of instruction, we have lost all originality. We have become birds without wings.” Gandhiji had always pleaded for mother tongue to enjoy pride of place in our Education. Satyen Bose, a great Educationist, held also the same view and pleaded for imparting education through the medium of mother tongue. He said “MATRUBHASA BYATEREKE GYAN O VIGYANER PRAGATI ASAMBHABA.” the present status that English enjoys in our Education system does not enhance our pride as a Nation.

So is the case with prohibition. Our action and our ideal are at complete variance. Why this variance? If this is not practical why not change it and be a realist notwithstanding the ills, and allow people to learn lesson through suffering.

Another example is the transitional provision in the Constitution with regard to Reservation. Reservation in legislature is extended every ten years. Should it be extended like this ad infinitum? Or come to a stop at any time? Same is the case with reservation in Services. It does not make sense to have reservation in Services on Caste basis alone in disregard of economic criteria, if we want the backward classes to benefit. Similarly, it is senseless to extend reservation in Services to the children of affluent families simply because they belong to Scheduled Caste or Scheduled Tribe. Further, how long this reservation should continue? Fifty years? One hundred years? The provision as it stands in the Constitution allows reservation so long the provision has not been deleted by the amendment of the Constitution. The situation is absurd and has to be clearly spelt out. At the same time, a planned programme for economic upliftment of the backward classes within a time frame should be drawn up and implemented with all seriousness to bring about a parity among different sections. Unless this is done neither a fair competition will be possible nor will it be possible to provide equal opportunity to all sections.

Similar is the case, with regard to ideas envisaged for decentralisation of power. One forced to believe that we profess what we do not intend to put to actual practice.

I am afraid, in no other country one would notice so much of self deception as in ours. Values have been sacrificed for temporary gains; we deliberately close our eyes to realities. Political expediency and cynical pursuit of power has led to indiscipline and corruption in public life. For these ills we cannot blame the Constitution. Rather we have failed the Constitution.

No democracy can long survive if there is wide gap between just expectation of the people and performance of the Government and the Government functions in way which deviates from the principles enshrined in the Constitution. Retrospection is essential so that we may not lose sight of our ideals.

National interest and interest of the people at large which the Constitution framers had in mind should guide our policies and their implementation. It is high time for self evaluation and self introspection. Leaders should lead kindly light amidst encircling gloom.

I want to made some suggestions.

A. Keeping in view the fast changing scenario in the global context where ethnic consideration are

taking a priority over geopolitical economic and other consideration the reservation question which is directly linked up with ethnic issues in India deserves serious consideration. My suggestion, therefore, is that steps to be taken to amend the Constitution to incorporate the provisions of de-notification to identify and integrate beneficiaries belonging to SC & ST from the reserve category to general category when, on assessment, they are found at par with members of other advanced communities.

B. A statutory provision to create a Fund in the line of National Renewal Fund, which may be termed as Social Integration Fund of India, From which allocation for social upliftment and other social development activities be made and the transaction be made directly accountable to the legislative and parliamentary fora.

C. Provisions to be made to integrate all statutory Commissions, such as Women Commission, SC & ST Commission and Minorities Commission under one statutory umbrella Commission to be known as Human rights commission. This would enable us for an intergrated approach to our social and ethnic problems.

Thank you.

श्री बृज मोहन मिश्र, अध्यक्ष, मध्य-प्रदेश विधान सभा: आदरणीय सभापति महोदय, उपस्थित पीठासीन अधिकारीगण न्यायाविद्, प्रबुद्ध पत्रकारगण व अधिकारी बन्धुओं मैं देख रहा हूँ कि बड़ी कठिन परिस्थिति में मैं आपके बीच में अपने विचार प्रकट कर रहा हूँ। यह तो मेरा बड़ा सौभाग्य है कि चाय पर हम लोग चले गये, वरना हम सब की नजरें घड़ी पर ज्यादा थीं, सुनने और वक्ता पर कम थीं। अब कम से कम आखें खुली हुई मिलेंगी, यह मेरा सौभाग्य था। फिर भी बहुत कम समय में मैं अपनी बात कहने का प्रयास करूंगा।

बाबा साहेब अम्बेडकर ने बड़े सटीक शब्दों में कुछ बातें कहीं। मैं उन्हीं के शब्दों को आपके सामने दोहरा रहा हूँ—

“How can people, divided into several thousands of castes, be a nation? The sooner we realise we are not as yet a nation in the social and psychological sense of the word the better for us.

To maintain democracy not merely in form but also in fact we must hold fast to Constitutional methods of achieving our social and economic objectives. It means we must abandon the bloody methods of revolution.”

इसी बात को डा० राजेन्द्र प्रसाद जी ने जो कहा है कि संविधान, एक निर्जीव और जड़ वस्तु है, उसे जीवन्त बनाने वाले हैं, इन्सान। झाड़वर अगर अच्छा है तो खटारा गाड़ी भी चला सकता है और झाड़वर अच्छा नहीं है तो अच्छी गाड़ी को भी मिया सकता है इसलिए अच्छे आदमी,

चरित्रवान, निष्ठावान आदमी रहे तो उससे गुजारा हो सकता है और हम यह जानते हैं कि इंग्लैण्ड में लिखित संविधान नहीं है किन्तु सदियों से प्रजातन्त्र वहां पर चल रहा है और अच्छे ढंग से चल रहा है। हमारा संविधान लिखा हुआ है, 395 उसमें अनुच्छेद हैं, उसके बाद भी हमें 70 उसमें एमेण्डमेंट्स अब तक करने पड़े हैं और उसमें भी आज हम इस बात की बहस कर रहे हैं कि जो हमारे संविधान बनाने वालों की अपेक्षाएँ थीं, वह पूरी हुई अथवा नहीं हुई और इसका मूल्यांकन करने के लिए मैं एक आम आदमी के नजरिये से आपके सामने अपने विचार प्रस्तुत करूंगा। प्रिएम्बल में यह कहा गया है कि सोशलिज्म, सैकुलरिज्म, डैमोक्रेटिक रिपब्लिक, यह हमारे मान्य लक्ष्य हैं, इनकी पूर्ति के लिए हम इस संविधान के माध्यम से इसे करेंगे।

समाजवाद का जहां तक सम्बन्ध है, हम यह अच्छी तरह से जानते हैं कि जहां से हमने इस फिलोसफी को लिया, इस आदर्श को लिया, आज उस समाजवादी व्यवस्था का क्या हथ्र है, वह हमसे छिपा हुआ नहीं है, उसके विस्तार में मैं नहीं जाऊंगा।

पंथनिरपेक्ष की चर्चा भी सुबह से काफी कुछ हो रही है। यह सौभाग्य कहूं या दुर्भाग्य लेकिन 42 साल के बाद हमारे आदरणीय प्रधान मंत्री जी ने कहा है कि इस पर बहस होनी चाहिए कि साम्प्रदायिकता क्या है, पंथनिरपेक्षता क्या है, सैकुलरिज्म क्या है। किन्तु बगैर बहस और समझ बूझ के हम इस शब्द का खुले आम, सोशलिज्म का, सैकुलरिज्म का प्रयोग बड़े सपाट तरीके से करते चले जा रहे हैं। उसका क्या अर्थ होता है, इसके ऊपर बहस अब प्रारम्भ होने जा रही है और होगी। क्या नतीजा निकलेगा, क्या हम उसको डिफाइन कर पाएंगे? राष्ट्रीयता क्या है, सैकुलरिज्म क्या है, यह आज तक भी परिभाषित नहीं है और स्पष्ट रूप से इसके सम्बन्ध में हर एक की राय, जितने बोलने वाले हैं, जितने विचारक हैं, उन सब की राय अपने-अपने ढंग से अलग ढंग से हमको दिखाई दी। सोशलिज्म की परिभाषा सत्तारूढ़ लोगों द्वारा जहां से आरम्भ किया था, वहीं पर आज खत्म होता हुआ हमें नजर आ रहा है।

सैकुलरिज्म जहां तक है, अपरिभाषित है। राष्ट्रीय संस्कृति, अतीत का गौरव, साम्प्रदायिकता, अल्पसंख्यकों का तुष्टीकरण, असांम्रदायिक, सोमनाथ का जब नवनिर्माण होता है तो फिर हम सोमनाथ का नव/निर्माण करने वाले को साम्प्रदायिक नहीं कहते, उन्हें हम राष्ट्रीय विचारक के रूप में मानते हैं। महात्मा गांधी जी को, सरदार पटेल को, किन्तु यही बात जब रामजन्मभूमि के सम्बन्ध में कही जाय तो हम इसमें साम्प्रदायिकता का भी आरोप सरेआम लगाने में हिचकते नहीं हैं। जब कॉमन सिविल कोड की बात होती है तो इसे हम साम्प्रदायिकता कहने लगते हैं किन्तु जब हम मुस्लिम लीग से समझौता करते हैं तो उसको असांम्रदायिक मानते हैं। उसी प्रकार अनुच्छेद 377 असांम्रदायिक माना जाता है और 370 को हटाने वाली बात पर हम साम्प्रदायिकता का लेबल लगा देते हैं। कश्मीर में हिन्दू अल्पसंख्यकों पर अत्याचार अगर हो, मन्दिर टूटें तो उसको सैकुलरिज्म मानते हैं, किन्तु कहीं मस्जिद को हटाने या सरकाने की बात हो तो उसी पर साम्प्रदायिकता का लेबल लगा देते हैं। अब यह जो विरोधाभास हमारी परिभाषाओं में है, इसको भी सही ढंग से हमें अभी परिभाषित करना पड़ेगा।

जहां तक लोकतंत्र का प्रश्न है, यह इसलिए कायम रह सका है कि हमारे संविधान में लिखा हुआ है या हम कुछ चुनाव करवा लेते हैं, राजनैतिक ढंग से हम सरकारें बना लेते हैं इसलिए लोकतंत्र यहां पर स्थापित है या बना हुआ है, यह बात नहीं है। इस देश में हमारी जो मानसिकता है, हमारा जो स्वभाव है, वह सहिष्णुता का है, उदारता का है, यहां की सनातन संस्कृति में लोकतंत्र के बीज मौजूद हैं। गंगाजल का अभिषेक रामेश्वरम् में जाकर करते हैं..... कुम्भ के मेले में आज भी करोड़ों लोग हिस्सा लेते हैं और श्रेय महान जनता को जाता है इन सबका, न कि हम राजनीतिक लोगों को या हमारे संविधान को उसका श्रेय जाता है। यह हमारे खून के अन्दर है और हमारे स्वभाव के अन्दर सहिष्णुता रहे, इसको जाता है। इसलिए हमारा प्रजातन्त्र भी काफी ढंग से चल रहा है, अच्छा ढंग से चल रहा है और सफल रूप से हमें दिख रहा है।

हमने संघीय सभ्यता स्वीकार की है। हमने यूनिफार्म गवर्नमेंट और फ़ेडरल कान्ट्रीट्यूशन को भी स्वीकार किया है। हम केवल ताड़ के वृक्ष को वृक्ष कहें और वट वृक्ष को जिसकी अनेक डालियां हैं, उसको वृक्ष न कहें, तो यह कोई तर्कसंगत बात नहीं है। अनेक जातियां, सम्प्रदाय और पंथ होने के बाद भी यह राष्ट्र प्राचीन काल से, वैदिक काल से लेकर आज तक यह राष्ट्र रहा है। इसमें जो त्रुटियां हैं, जो खामियां हैं, उसको दूर करने का प्रश्न है। यह भी एक आदर्श है, लेकिन उसमें भी व्यवहार में खामियां नज़र आ रही हैं। इसमें कोई सन्देह नहीं है कि हमारी धार्मिक सहिष्णुता के कारण से सब भाई-भाई मिल कर रहते चले आ रहे हैं। किन्तु हमने संविधान में धारा 356 का दुरुपयोग किया है। विगत चार दशकों में 88 बार राज्यों में राष्ट्रपति शासन लागू किया गया है। अम्बेडकर जी के शब्दों में यह डेढ़ लैटर है, यह माना गया है कि निहित स्वार्थ के कारण, वैस्टेड इन्ट्रैस्ट के कारण हमने इसे स्वार्थ सिद्धि का साधन बनाया और उसके परिणाम हमारे सामने हैं। इस कारण से अनेक विवाद पैदा हुए हैं। अलगाववाद को हमने जन्म दिया है। धारा 356 के प्रयोग की बातें स्टेट्स को घमकाने के लिए हम प्रयोग करते हैं। मान लीजिए, जनता को प्रतिनिधित्व जो दिल्ली में सरकार चलाते हैं, वहीं लोग इसका अमल कर रहे हैं। किन्तु जब बातचीत होती है और सिद्धान्त की चर्चा होती है तो यह कहा जाता है कि केन्द्रीयकरण होना चाहिए। स्टेट्स हों, पंचायत हों, नगर-पालिका हों, नगर-निगम हों, मजबूत स्थायी शासन कायम किया जाए। किन्तु आज स्टेट्स की स्थिति हमने नगर-पालिका और पंचायतों से भी कम खराब नहीं कर रखी है। इन सब के अन्दर भी सुधार की आवश्यकता नज़र आ रही है। जो स्टेट्स है, जो उनकी सार्वभौमिकता है, उसको इस ढंग से, हल्के-फुल्के ढंग से, एक दूसरे के प्रति अविश्वास की भावना पैदा हुई है। उसी का परिणाम है कि आज अलगाववाद जम्मू-काश्मीर में और पंजाब में नज़र आ रहा है।

जहां तक न्यायाधीशों को हटाने की प्रक्रिया का सवाल है, मैं इसमें बहुत विस्तार से नहीं जाऊंगा। जस्टिस रामास्वामी के द्वारा क्या हुआ है, यह सब लोग अच्छी तरह से जानते हैं। न्यायाधीश ही जब अवमानना करेंगे, तो क्या स्थिति होगी। कोर्ट्स की अवमानना न्यायधीश करें, तो क्या हथ्र होना है, यह भी किसी से छिपा हुआ नहीं है। दो वर्ष बीत जाने के बाद भी उस समस्या का निराकरण नहीं हो पाया है और हम इस केस में भी सलाह मांग रहे हैं कि क्या हम इस केस को सुन सकते हैं या नहीं सुनते हैं। ड्यूटी निभायें या न निभायें, यह सब स्थिति आज हमारे देश के

सामने चल रही है। आज जो सरकारी कर्मचारी हैं, जो लोक सेवक हैं, जब वे इस प्रकार के हो जायेंगे तो आसानी से उनको निकाला नहीं जा सकता है। हमारे अनुच्छेद-311 में दिया है कि व्यक्ति निर्भय होकर अपना काम काज करें। यह जो प्रावधान है सुरक्षा का, सिविलियरी का, उसका दुरुपयोग होते हुए भी हम देख रहे हैं। हम देख रहे हैं कि, कार्यपालिका की दृष्टि से अगर किसी का ट्रांसफर किया जाता है, सस्पेंड कर दिया जाता है, तो हम कोर्ट से स्टे आर्डर लेकर आ जाते हैं और वह आसानी से मिल जाता है। डे-टू-डे वर्किंग में हमारी कार्य-पालिका काम नहीं कर सकती है। विधायिका के नाते कोई स्पीकर दल-बदल कानून के अन्तर्गत निर्णय करें, तो उस पर स्टे फैसले के साथ आसानी से मिल जाता है। परिणाम यह हो रहा है कि जुडिशियरी, लैजिस्लेटिव के बीच में टकराव है, कहीं कार्य-पालिका और जुडिशियरी के बीच में टकराव है। ये दोनों भी हमारे यहां अपने आप में सार्वभौम नहीं हैं। कोई श्रेष्ठ नहीं है, हमारा संविधान श्रेष्ठ है। हर एक की अपनी लक्ष्मण रेखा है और हम इस लक्ष्मण रेखा को हम पार करेंगे तो प्रजातन्त्र की जो सीता है, उसका हरण तो रावण करने वाला है और यह बात निश्चित है। हम अपने हाथ से ही संविधान को तहस-नहस कर देंगे। विधायिका और नगर पालिकाओं के बीच, अनुच्छेद 105, 94, 122, 212 और दसवीं अनुसूची में जुडिशियरी रिव्यू के नाम पर स्थगन आदेश दस-दस साल के फैसले नहीं हो पाते हैं। मेरी अपनी ही विधान सभा में, 1978 में एक विधायक महोदय को निकाला गया था अनुशासनहीनता में। उसके बाद भी वे दो बार चुनकर आ गए हैं, लेकिन उनका फैसला सुप्रीम कोर्ट में पेंडिंग है। हमें तो जुडिशियरी का आदर करना चाहिए। क्या कार्यपालिका, क्या जुडिशियरी, क्या विधायिका, ये तीनों ही अपने आदर्शों से भटके हुए, कुर्सी से नीचे गिरे हुए हैं। जनता की जो सामान्य आकांक्षाएं हैं, उससे नीचे उतरे हुए नज़र आ रहे हैं। मैं समझता हूँ कि यह दोष संविधान का नहीं है। जो अलिखित संविधान है, वह भी काम कर सकता है। इसके अतिरिक्त संविधान में यदि और भी कुछ सुधार करना चाहें तो हमारा संविधान काफी लचीला है। इसमें सत्तर बार संशोधन हो चुके हैं और भी अगर हम संविधान में संशोधन करना चाहें तो संविधान में संशोधन कर सकते हैं। लेकिन संविधान संशोधन से ही बात बनने वाली नहीं है, इसमें सवाल नीयत और नीति का है। मामला हमारे यहां नीयत का ज्यादा है, नीति का मामला कम है। नीयत का मामला ज्यादा गडबड है। अगर हमारी नीतियां ठीक रहें, तो मैं समझता हूँ कि संविधान चाहे जैसा हो, कुछ उसमें चाहे खोट भी हो, तो उसमें सुधार करके हम आगे बढ़ सकते हैं। सवाल चतुराई का है, निष्ठा का है, अगर इस आधार पर हम चलें तो मैं समझता हूँ कुछ खामियां भी संविधान में हो तो उसके साथ भी हम अपने देश की कल्याणकारी नीतियों की इम्प्लीमेंटेशन कर सकते हैं। अगर यह नहीं रहा तो संविधान कितना ही परफैक्ट बना लें, उसके बाद भी हम अपने देश को आगे नहीं ले जा सकते हैं।

इन शब्दों के साथ, मैं आपका आभारी हूँ कि आपने मुझे बोलने के लिए अवसर प्रदान किया।

Shri J.K. Mittal, Professor, Indian Law Institute:
Mr Chairman, distinguished Members of this august House and ladies and gentlemen. I am beholden to the organisers of this Seminar for having invited me

to this grand exercise—intellectual and otherwise. During these two days I have learnt a great deal about constitutional interpretations and ideas and the working of the Constitution despite the fact that I have studied and taught this subject for about 32 years in universities and other institutions. I have also had the privilege of doing some field work in villages of several states to study social legislation in action and to ascertain the degree of awareness in the people at grassroot level of our constitutional objectives and processes.

It was long back when Mahatma Gandhi had appeared on the political scene of this country that there was a qualitative change in the leadership of the country and a new political weapon, that is *Satyagraha*, was given to us to fight the British. Gandhiji was the first to assert the sovereignty of the people of India. In 1922 he had made it clear to the British that no constitution framed by British Parliament would be acceptable to us; an acceptable constitution would be one that would be framed by the representatives of the people of India. This was followed by a grand ideological exercise during 1922—31 when Jawaharlal Nehru gave the lead in formulating the principles of our Constitution, culminating in the Karachi Resolution of 1931. The resolution highlighted fundamental rights and a programme for social revolution in the country to uplift the masses—the peasants and the labour especially. The Karachi Resolution was the basis of further resolutions of the Indian National Congress and also kept in view while Nehru drafted his objectives Resolution. The Constitution was drafted by the Constituent Assembly in the light of this resolution and of the pledges of pre-Independence era. The Assembly had completely reversed the Cabinet Mission Plan of a loose federation and voted for a strong Centre to ensure steady and even development of the country.

The quality of the political process of pre-Independence era and the deliberations of the Constituent Assembly are evidence of a mature, wise and moral leadership that the country then had. The developmental Constitution of free India conferred vast powers on the state authorities and functionaries and also provided a control mechanism to ensure that powers are properly exercised. The framers were confident that political managers of the state would be persons of calibre, character and integrity and that they would lay down healthy conventions to cover situations not specifically provided for. They valued human element in the working of the Constitution and hoped that good

sense and wisdom would pervade the functioning of political institutions.

The hopes of the framers were, however, belied especially after the exit of Nehru in 1964. The human element in the political functioning as emphasised by Rajendra Prasad and a strict adherence to constitutional methods emphasised by B.R. Ambedkar lost their impact in later years. The country witnessed a sharp decline in political morality and propriety and a phenomenal growth of political corruption of varied type. The distortions in the political process affected adversely the stability and development of the country. There are three prominent examples of such distortions. The first is the abuse and misuse of the powers relating to national emergency under article 352. The second is the abuse of the power to take over state administration under article 356. The third is the unprincipled floor-crossing, that is, the political defection. These evils could be checked to some extent through constitutional amendments as forty-fourth and fifty-second in 1978 and 1985 respectively. Had politicians in power kept in view the guidelines and cautions issued by Prasad and Ambedkar at the time of adoption of the Constitution, and acted with wisdom in public interest, the amendments would not have been unnecessary.

If the political process, which is now closely linked with socio-economic and cultural processes, is tainted and distorted, we are not going to achieve any results. This must be realised by politicians and others also who wield state power. No amount of legislation and constitutional amendment would do unless people and politicians alike remind themselves constantly of, and practise, what Prasad and Ambedkar urged them a little more than four decades ago. Their words must echo in their minds and hearts. Only then power would be a trust of the people with political functionaries of the state and would be exercised for the good of the people.

Presuming that power, would be a trust of the people, now what has to be done in the direction of development in the context of our society? How can we translate the vision of social democracy as pointed out by Ambedkar into a reality? In the pre-Independence era, we had several models of development. The Marxian model was one. Nehru was impressed by it as he saw it in operation in the USSR. The second was the capitalist model of USA. The third was Gandhian. It seems the framers did not pay much heed to the Gandhian model which

was basically a model of *gram swaraj*. It was just side-tracked in the directive principles under the caption "Organisation of village panchayats" (article 40). They did not contemplate a third tier of the state at local level (village and municipal level). Ambedkar thought that villages were dens of factionalism and had to be put under states' administration. Happily, recently a lot of political thinking had gone into this aspect and bills framed and introduced in Parliament to create a third tier of the state. The sooner it is done the better for the country. It would hasten the process of development and ensure the participation of the people at the grassroot level in this process. That would be a major step towards social democracy and political as well.

Coming back to the question of the models of development, the framers were perhaps not in a position to pinpoint any definite model keeping in view the prevailing environment and the complexion of the Assembly. Perhaps in the Indian context they did not want to opt a socialist or capitalist model. The Gandhian model might not have appeared to them workable and practical. Therefore, the preamble, fundamental rights and directive principles were so framed as to allow sufficient leeway to the state to formulate development policies best suited to the country at various times. Nehru ultimately came out with the pattern—the socialistic pattern of society—and adopted "mixed economy" as a model of development wherein both the state and private entrepreneurs would be actors in the process of development. We did declare India to be a socialist state by the forty-second amendment in 1976 but this hardly changed the underlying philosophy of the Constitution by making amends in its provisions. In fact, till today, despite so many definitions and explanations, we are not in a position to pinpoint what our socialism stands for. Socialism is basically an economic concept which requires socialisation of the productive resources of the community. Have we done it?

Today we have embarked on the process of liberalisation. Are we going to give up social control and state ownership, whatever it is? We have yet to evolve a development model which suits our country, especially the people at the grassroot level. In a country of mass population, of numerous diversities, of manifold social, economic and political problems, some threatening our integrity, a capitalist model and just market economy would not work. Would the private entrepreneurs behave and would the wielders of power have requisite political will to set things right? We have to be very cautious before we totally

discard Nehruvian model which has stood the test of time and resulted into widespread development of the country. The time has come when we must have a constant dialogue and national debate on development and models of development. We must involve the youth in this process. Any model must, however, make sure that the gap between the haves and havenots and between the rural and urban areas is reduced to a minimum. Ultimately much would depend on the quality of the political process.

The time assigned to me is over. I wish to express my gratitude to the Chairman and distinguished members of the House for having listened to me patiently.

Shri Anil Mukherjee, Deputy Speaker, West Bengal Legislative Assembly: Hon. Chairman, Sir, learned presiding officers, hon. Judges and other distinguished visitors, now I shall confine myself to two aspects on the Constitution of India. One is Constitution in Precept and Practice and another is about Constitution and the national integration.

Now many distinguished speakers since morning have spoken on national integration and Constitution of India in Precept and Practice. Regarding national integration and the Constitution, eminent politicians, eminent lawyers, barristers, advocates have said so many things in the seminar. I am starting with the quotation of hon. Justice Krishna Aiyar. Justice Aiyar said in one of the seminars and I quote:

"Hypocrisy is replete in the political life of this country. The result is that in speaking of national harmony, we do everything for national disharmony. When we speak of national integration overtly, we do covertly everything for national disintegration. If only India practices what I shall say, the emphasis of Mahatma Gandhi in the matter in words and deeds not necessarily his ideology, this nation would have been transformed long ago."

This is the beginning of a speech in a seminar on national integration. Today we see in Delhi politicians speaking about national integration and tomorrow we will find them in Ayodhya speaking in a different language. We know about this crisis. Who created Bhindrawale? Who created this type of terrorist agitation in Punjab? You know that the people of Punjab have sacrificed maximum during the Independence struggle. In Kashmir, for nearly 40 years we have not been able to make them Indian. Now in Assam that type of separatist movement is going on for a few years. But in the beginning of

sixties, this type of separatist movement or the agitation was not found in India.

This is the big interrogation as to why this sort of separatist, secessionist and parochial movement and communal riot is going on in India. Is it the fault of the Constitution or is it the fault of the people about which hon. Justice Krishna Iyer has said? We shall have to think over it. Do the foreign agencies, as Mr. Chairman has said in his speech, have vested interest and they want to create destabilisation in India? As you know before 1947 the foreign powers wanted to balconise India. It is Pandit Jawaharlal Nehru's greatest ability that was able to check this type of balconism movement. The foreign ideas were frustrated. Now, after the departure of Panditji, a great son of this mother India, the country is facing problems regarding foreign infiltration and other activities. The influential forces and the vested interests are trying to destabilise India. They want to make India they have done as in Russia. But why people of India have not been able to cope with this at the present moment?

You know Dr. Ambedkar had said that the Constitution is just like a lamp. A lamp can remove darkness; a lamp can burn a house. The application of a lamp is important. A knife can stab a person; a knife can save the life of a patient by operation. The Constitution is such that the application of the constitutional provisions will generate bad and good things. It depends upon the operators of the Constitution. The Constitution has provided us everything, if you examine it clause by clause and article by article. Everybody has analysed it to some extent and I am not going into the detail I am only referring to the preamble, part 3 of the Constitution about fundamental rights, part 4 of the Constitution about directive principles of the state policy. There are also other articles where you will find many other provisions about weaker sections, so that economic and social justice can be made.

Pandit Jawaharlal Nehru in 1936 in Lucknow said

"I see no way of ending the poverty, the vast unemployment, the degradation and the subjection of the Indian people except through socialism."

By socialism he means,

"I am convinced that the only key to the solution of the world problems and of India's problems lies in socialism. When I use this word, I do it not in a vague humanitarian way; but in the scientific economic sense."

That means Panditji wanted scientific socialism. The previous speakers said that there are two hundred definitions for socialism. But Panditji's concept of socialism is scientific socialism in the economic sense. He was not referring to vague 199 definitions of socialism. So again we find in 1976, according to the wishes of Pandit Jawaharlal Nehru, Smt. Indira Gandhi incorporated in the Preamble the word 'socialist' and 'secular' in our Constitution. So the Constitution wants that India should be a socialist country. But in practice what we are doing now? We are introducing market economy. We are going to invite foreigners. That means in precept we want scientific socialism; but today in practice we are deviating from the precept of the Constitution, and we are making the country a capitalist one. We are going completely against the socialism.

So, in present and practice, we are deviating. We have introduced various programmes for the amelioration of conditions of the poor people in different rural areas. Now there are various poverty alleviation programmes introduced by Shri Rajiv Gandhi. There is Indira Awas Yojana. There is Jawahar Rozgar Yojana. Except in West Bengal, you cannot see any house constructed for the poor or Jawahar Rozgar Yojana is applied through Panchayat. The panchayat is the concept which is contemplated in the Directive Principles of State Policy. Even some of the speakers have mentioned it. They have not been able to implement the idea of Panchayat and decentralisation of democracy. If you visit West Bengal, you will find, we have given the powers to the local people. Mr. Rajiv Gandhi visited West Bengal and had seen how it was implemented. For every five years, election is conducted. In some parts of India it is implemented and in some parts, it is not. If the provisions of the Constitution are not implemented properly, then the development of India will not take place.

On the Centre-State relations—in our state we are facing and the other States are also facing the problem—you have said for a strong centre. No doubt, we want strong centre, strong Union. But how will strong Union be made? If the supporting system is made strong, the whole object will become strong. If all the States become strong, then the Centre will be strong. Only four or five subjects need to be kept at the Central list. For example, they are Defence, External Affairs, Communication, currency etc. Rest of the subjects must be handed over to the State.

Hon. Speaker of Punjab has said, you are borrowing wheat from outside. If you give water to Punjab, Punjab will be able to feed the whole India,

he says. Why are you not giving water to Punjab? If Punjab produces wheat, the entire country will be benefited. Why should we go to America; why should we not give water to Punjab? You make the development of economy in Orissa; development of economy in Punjab, in Haryana. Like that, you develop the economy of entire India by developing each State in each way, according to its infrastructure, according to its ability and growth. If all the States become strong economically, then the Centre will definitely be strong.

I do not say the American Constitution is the ideal. But it has a presidential form of Government, where all the States are autonomous and powerful. Is there any weak Centre at America? It is definitely not. If the decentralisation is made up to the Panchayat level by amending the Constitution, as suggestions made by various speakers including for constitution of commission, that would help economic development.

I support that proposal. Mr. Upendra has said regarding articles 356 and 352. Many speakers have said regarding the amendment of that provision because in working of the democracy, in working of the Centre-State relations and for making a strong Centre, the use of article 356 or its modification or the power of the Governors or appointment, all these questions, which were raised, should be looked into and more and more power, specially the economic power to the States is to be given so that they would not go to the Centre with a bowl for begging for development of their own State. This is my humble submission.

Prof. R.K. Barik, Indian Institute of Public Administration: Thank you, Mr. Chairman, for giving me a chance to put forth my points. Actually, I want to raise a point that in the history of Indian people's struggle if you place Ambedkar, he can be placed only with Buddha. In one sense, he is little bigger than Buddha because Buddha failed in India to give a weapon to the low caste to fight against Brahminism whereas Ambedkar succeeded to give a weapon to low castes to fight against Brahminism and upper castes. That weapon is not necessarily anything else except a simple document, that is, Indian Constitution.

Now the second point is that about the Indian Constitution he spent nearly 30 days on the chapter on Fundamental Rights which is crucial and which is crucial to the lower strata of the society like scheduled castes and the scheduled tribes to fight for justice, to fight for equality, and to fight for liberty. Interestingly, the right to equality today is in the

hands of low-caste people. It is a weapon for their political rights. It is a weapon for their social rights. Today, no low-caste man is ready to accept the Brahminic order of the system. They question the legitimacy of Hinduism because Hinduism in one sense survives only because it is another ideology. The right to equality in the Constitution is framed in such a beautiful manner that you are equal in relation to a society which is unequal. That is why there is a provision for the protective discrimination which will protect the low caste people, which will give a chance to the lower caste people for social and economic mobility. Today it is a sad thing that the Speaker of the Orissa Assembly in his paper is opposing the reservation for the low-caste and adivasis.

Shri Yudhisthir Das: I protest this.

Prof. R.K. Barik: They constitute almost 50 per cent of the Oriya people. Interestingly it is a written speech. You can look at it. I want to raise this point. 45 per cent of people are Harijans and scheduled castes. It is a disrespect to the people of a poor State. The Chief Minister of Orissa is also raising this. He is opposing the reservation for backward classes. The point is that in the name of Ambedkar, in the name of the Indian Constitution, it is a disrespect to Dr. Ambedkar, it is a disrespect to the Indian Constitution. The basic spirit of the Constitution is this. It was framed by Ambedkar and an agreement was finalised between Ambedkar and Gandhi that the upper caste and the lower caste can remain together in the Indian society in an integrated humanistic manner by giving concessions to the low caste people.

It is popularly known in history as Gandhi-Ambedkar pact. One has to understand the spirit of the pact. The lower castes have not been given the charity of getting reservation in Assemblies and Parliament. It is Gandhi as a thinker looked at the problems of the people of India and worked to improve their political awareness and it is Mahatma Gandhi who had brought about this reservation. The tragedy is that today, many of the politicians in this hall and outside oppose the basic spirit of the Constitution, though in the name of Ambedkar, they give speeches outside.

The second point is about the right to liberty and it is the most important fundamental right in the Constitution which helped the lower classes to mobilise themselves and demand minimum rights like right to protest and right to form association etc. Indian Constitution is basically a people's document, it is not an elite document. It has been proved in the last 40 years that the Indian capitalist class is

opposing secularism on which Indian Constitution is based. Then, another point is that, Indian Constitution which is basically a people's document which is helping the people to protect their rights, which is helping the people for protecting their dignity, is being attacked by the political parties today and also by the Indian capitalists.

Is the present political system going to protect our democracy? Without democracy, there is no Constitution. It basically provides a Constitution which helps all classes, all social groups, all individuals to survive with some dignity and some social respect. When we are opening our economy to multi-national corporations, will they allow our democracy to survive? In all the Latin American countries where the multi-national corporations have entered, the democracies have not survived. In political science, it is called 'banana republic'. If it happens here, it will be a tragedy for the people of India and specifically to Dr. Ambedkar. The second part of the same story is that the liberalisation policy is going to affect basically the lower classes and lower castes for whom Dr. Ambedkar fought throughout his life. In the coming years, the number of people who will be removed from jobs is something like 3.5 million and it will basically affect the lower classes. There will be hardly any job. Therefore, the constitutional provision for reservation is a fake idea. Without reservation, the lower classes cannot protect their rights. Those who argue that it has gone to the richer people among the lower classes, they should see the movement for Dalit Politics in Maharashtra. Yesterday, they were thinking in terms of Scheduled Castes and Scheduled Tribes and today, they are thinking in terms of Dalits. We think that they are as equal with other upper caste people. The constitutional provision of reservation has succeeded to create a vested interest in the lower castes. It is completely non-sensical. In Jharkhand, the educated elite have succeeded for protecting the tribal people, they are made aware of the situation that their homeland is exploited, their jobs are being taken away, their mining is being exploited and they are not getting any job. Therefore, unless the constitutional provision is implemented properly and unless the democratic system survives, the lower classes and the poor people will suffer and it will be a disrespect to the Father of Indian Constitution, Dr. Ambedkar.

Mr. Chairman: Before I request Prof. R.K. Nayak to speak, I think Dr. Joseph Verghese,

Advocate, Supreme Court of India would like to say a few words.

Dr. Joseph Verghese: Respected Chairman and other friends, as a constitutional student and lawyer, one remark that I want to make is that it is always baffling to see when people ask for self-determination, when they demand for more understanding from their legally instituted Government and when it comes in the form of a movement, a democratically elected Government imposes Army rule. How is it done?

Mr. Chairman: There is no provision in the Constitution for this expression 'Army Rule'. Army is always called by the local administration to maintain law and order and to assist the local administration in controlling and tackling difficult situations that may arise due to natural and manmade calamities. The District Magistrate is empowered to call the Army to assist the local administration. Therefore, by any stretch of imagination, you cannot call it an 'Army Rule'. Supposing there is a natural calamity such as flood and the local administration do not have the equipment which the Army may be having, and if the Army is called in to assist, you cannot call it an army takeover. It is a very very hard provision and is used only as last resort by the District Magistrate. For this purpose, he need not even come before the Chief Minister. He is empowered to go to the nearest Army Station and ask the local Commander to render assistance in tackling a typically difficult situation, whether it is law and order, whether it is a natural calamity or a man-made calamity.

Dr. Joseph Verghese: Thank you Chairman. What I mean is this. The three Armed Forces under our Constitution are under the direct control of the President. And the way the Army is being used in some States, especially in Assam, is not correct.

That is my first point.

Secondly, certain rights were given under the Constitution to the people. The people are supreme and they are the constituent power. The fundamental rights are the checks against the State. In the context of Dr. Ambedkar, the foremost among the fundamental rights is the Right to Equality. Right to Equality without the context of social justice has no meaning. That is why, the Courts interpreted Right to Equality in terms of protective discrimination. The extent of frustration it has created in implementation, I must

say that it would have been much better if those provisions should not have been there.

I would like to tell about my short experience of three years in Gujarat. We used to conduct 3,500 cases of people who were really under debt. We used to file petitions by printed plaints. And the authorities, the bureaucrats and the moneylenders, they all used to tire them out by filling appeals after appeals. And at the end people used to come and tell me that it would have been much better for us to remain in our land with the Stay Order. The moment the Stay Order is gone, they are helpless. The extent of frustration that it is creating, in my humble opinion, it has to be scrapped on that ground only. You have a typical way of declaring too higher value never to be implemented.

Thirdly, all of us including the politicians, the leaders, they are all responsible for this right from the word go. I think, Mr. Chairman, you have yourself said in your speech about the way in which the State Re-organisation had bungled. Kindly look at the tribal area. I will only point out three areas.

The moment you say about Jharkhand, a lot of emotional feeling are attached to it. But please see the reality. The two districts of Eastern Madhya Pradesh namely Surguja and Raigarh and the two districts of Orissa, which are touching Bihar, namely Saraikela, Rourkela and Sundergarh—they are one and the same tribes across this road and that road. It is a vast area bigger than the State of Bihar itself. And on what ground were they divided? That is totally not understandable. If Bihar and M.P. are divided on the ground of language—they were supposed to be Hindi speaking—why was the tribal land cut into three or four pieces?

The same thing has happened in the western sector also. You will see the Bhil tribe along the eastern part of Gujarat. You will see them in Baruch and Surat, including Dand. Similar is the case in Maharashtra—Akalkua and other areas. So too in Madhya Pradesh and Rajasthan. In all these four States, if you cut the tribal areas together, there is no reason why one and the same tribe has been cut into four and given to four different States. What I mean to say is that the double standards used against these people has been totally unconstitutional. There is no reason why the tribal land has been cut and given to servants. They will be doing the fourth class job. My humble suggestion in this regard is that unlike the Scheduled Caste, the Scheduled Tribe lives in concentrated area, known as a scheduled area. I am surprised to see that the official translation of

'Scheduled Area' is 'Anusuchit Area'. It is not known. But scheduled area means those areas which has been Constitutionally declared and wherein more than 50 per cent of the tribals live. It is a compact area. I do not know why these areas are given in small-small pieces to different States. It should have been in the first instance under the Central rule like a Union Territory. A lot of these uprisings and a lot of these movements can be contained and controlled even today. Even today, if these areas are brought as a Union Territory and later on a feasibility of a separate State can be found out, then it would be quite all right.

The third point that I want to raise is about the non-understanding of the lower strata of the people. The division which Mr. Advani was talking, the two-nations theory, the multi-nation theory, it is all because of the non-understanding. It may be in the regional level; it may be in the language level and it may be in the population level. I was really surprised that the great Saints like Sankaracharya who hails from Kerala did not establish a Mandir. I cannot understand the reason why historically, the Sankaracharya did not establish a Mandir. He has not built any Mandir anywhere to my knowledge. From where did he get this idea I cannot understand. What he established was a Mutt. Do you understand what is meant by a Mutt? I am not a Hindu. I am a Christian. But I understand very well what is a Mutt. Mutt is a place where you have a learning, where you give more importance to learning than worship. He had not built any place of worship. He had only built or established places of learning. This is because in Kerala all along the centuries, there were three religions. They were living very peacefully. The religions were Muslims, Hindu and Christians. The Muslims had the Masjids and Madarsas always together. Similarly, the Christians also had their Churches and the Schools always together.

But the Hindu did not have it. It is only the Sankaracharya who started this. It is Sankaracharya, wherever he went, he started a Mutt for diaching purposes. You are distorting the entire thing. And that is the reason why you must understand, even the Muslim League in Kerala cannot be described as a communal party. Muslim group in Kerala or Christian group in Kerala or Hindu group in Kerala never had this problem of communal riots at all in down South. It is all inheritance of the North. What I mean to say is that, without understanding this, you are distorting the historical aspect of it.

I would put one more example and then I will finish. I have heard from the learned Speaker from Madhya Pradesh, very high or lofty ideals of what is the Constitution and how it is to be implemented. The two-nation, multi-nation theories, when it is put into actual practice, what will happen? If you recollect what has been happening these days then you will realise the position. The district of Surguja which is one of the Easternmost districts of Madhya Pradesh, is today, under the grip of famine. They are supposed to distribute whatever State's largesse is available to save them from dying. 90 per cent of the tribals who are living in that village have faith in Christianity. The condition they have imposed to save them from famine was this. They will give food only if the tribals convert themselves to other religion from Christianity. That is the kind of secularism the State of Madhya Pradesh is practising. When you, on the one hand, preach all these things and on the other hand, practice other things, I cannot understand this double standard of yours. You criticise the implementation of the values of Dr. Ambedkar into practice. If you keep on speaking and only give lip service, I think then, we have to go a long way. We have to accept the sincerity of the people and start doing something. At least one concrete step I would suggest is this. You declare the scheduled areas immediately as Centrally controlled Union Territory and then only proceed further. I have even lived in Jharkhand. I have lived there for twelve years. I know it very well if you immediately give them Statehood, then, there will be sudden spurt of power brokers.

Now, the first step must be, you take over those areas as Union Territories and then have all the feasibility of establishing a State.

Thank you.

Prof. R.K. Nayak, Indian Law Institute: India is a multi-racial, multi-lingual and multi-religious land. The Indian Constitution, as a social document, has worked amidst this diversity and there has been unity through it. All those within the area extending Kashmir to Kanyakumari, Kutch to Arunachal Pradesh are fellow countrymen, irrespective of their caste, creed, colour and religion. In the course of long history, people of different races, religion and languages have made a basic unity and a distinctive identity. Although the achievement of our independence has confirmed the unity, there are certain fissiparous and disruptive tendencies today which tend to undermine the solidarity of our people.

There are questions that the honest citizens of free India have to ask themselves frequently. Sometimes one cannot help feeling angry about certain vested interests which seem to be directly or indirectly behind every manifestation of communal disharmony or outburst of violence against certain classes. The vested interests are behind every caste consciousness act in India because they strive to preserve caste and have emerged as a sort of new caste in India. The acts of violence, where the under privileged classes suffer, happen mainly because the violent are able to get away with their violence. They are shielded by one dominant class or the other.

Social reforms, pointing out the need of doing away caste and its evils, has been with us for well over two centuries. If we had really been serious about doing away with this monster of caste in all its forms, could we not have so in respect of our educational institutions and in employment instead of which we have encouraged it and seem to have perpetuated the caste distinctions for all time.

But supposing that we are all earnest about creating a society that will be egalitarian and just, have we done anything here and now to create the ideal society that we have been talking about so long with no obvious attempts at creating it. It is high time that we realised the ambition of living as one nation, as a family knit together by a nationality and accept its purpose and ideals in theory at least. First, education should be geared up from the primary to the university levels for creating an egalitarian society in India. Caste and social distinctions should be allowed to be forgotten not perpetuated. Even economic disparity be made to look less obvious at least while the young are students.

Religious instructions should be compulsory in schools and colleges. The emphasis of such education need not be on one religion or one set of fancies superstitions but on general moral principles and values derived from all the religions as are agreed. In this matter of religious instruction, the emphasis might be on secularism and secularism itself being the tolerance of all religions and the meeting point of all religions in the true sense, and the accentuation of moral principles. Education should insist on catching them young. Students be taught the national aim and purpose and ideal of all living. Employment should not be the only and ultimate aim of education as happens today. Education should inculcate ideas of tolerance as well as a true sense of the unity of the nation known as India or Bharat. Until the nation discovers a new purpose to live, fragmentation might be unavoidable.

Political unity is not enough. Unity should be achieved by cultural activity by emotional realisation and psychological understanding. Apart from the education as the basis of building up a strong united India, political and cultural activities should be directed towards strengthening the feeling that the country is one. Regional chauvinism has been only too rampant among us, consequent on the division of India into linguistic regions. Language can be unifying as well as a divisive force.

Mr. Chairman, please permit me to say, as it happens all our love for one language has been geared to create real unity. There are people who are opposed to a single language for India and that single language is only Hindi which has travelled throughout the length and breadth of the country. In this regard some hard decision has to be taken by the Government.

Last but not the least, the presence of a large number of hungry, homeless, sick, miserable and downtrodden people is a great challenge to the unity of our nation. Freedom was won with the hope of making fuller and richer the lives of millions of people who are poor and the miserable. The planning processes have made certain class of people prosperous and neo-rich but the poor man's lot has not improved. He is frustrated and often a victim of sordid temptations which the new wealth has created. The imbalance, in the economic development existing between the extremely poor and backward areas and extremely advanced and prosperous regions, creates unhealthy rivalries among States and presents a serious threat to the unity of India. The enthusiasm with which several State governments have fought with the Planning Commission on issues concerning particular projects is enough indication of the possibility of very much sharper struggles in the future.

Briefly, communalism, casteism, regionalism, linguism and narrow-mindedness are the evils that corrode the very vitals of our nation. This is fraught with dangerous consequences. If India is to survive as a nation, strong united and indivisible, it is necessary to preserve her national character. Without national discipline and a national ethos, national integration in the country may not be possible in reality.

I would like to remember what Pandit Nehru said:

“If India lives who dies and India dies who lives?” These memorable words should be the sheet-anchor of national thinking. It must be

understood well that without patriotism, national integration or national unity will continue to dwell in the danger zone. In this regard Swami Vivekananda's views are very much important:

“They talk of patriotism. I believe in patriotism and I also have my own idea of patriotism. Three things are necessary for great achievements. First, feel from the heart.....Do you feel that millions and millions of the descendants of gods and of sages have become next door neighbours to brutes? Do you feel that millions are starving today, and millions have been starving for ages? Do you feel that ignorance comes over the land as a dark cloud? Does it make you restless? Does it make you sleepless? Has it gone into your blood, coursing through your veins, becoming constant with your heart-beats? Has it made you almost mad? Are you seized with that one idea of the misery of ruin, and have you forgotten all about name, your fame, your wives, your children, your property, even your bodies? Have you done that? That is the first step to become a patriot, the very first step.”

With these words, I pay my humble tribute to the main architect of India's Constitution and express my gratitude to Shri Buta Singh for giving me this opportunity to speak today.

Mr Chairman: This brings us to the end of today's Seminar. I would like to sum up the proceedings in a few words.

It has indeed been an illuminating experience to be present here at this two-day Seminar on the Constitution of India in Precept and Practice, organised under the joint auspices of the Parliamentarians Group for the Dr. B.R. Ambedkar Centenary Celebrations, the Indian Parliamentary Group and the Bureau of Parliamentary Studies and Training. May I take this opportunity to thank all the distinguished participants who made it convenient to attend this Seminar and share their views and experiences on the subject matter which is of utmost topical relevance and concern to the nation at large.

Friends, during these two days, we have had occasion to discuss at length diverse aspects of the focal theme “Constitution of India in Precept and Practice”. The Inaugural Address delivered by the hon. Speaker Lok Sabha, Shri Shivraj Patilji set the

tone for the discussions to follow. His thought-provoking Address threw up many original and new ideas which require earnest and serious consideration at all levels. We are greatly beholden to him for extending to us the benefit of his wisdom.

The discussions on the four topics of the Seminar were preceded by Key-Note Addresses delivered by eminent parliamentarians. Each and every one of them highlighted the varied aspects of the issues in their own inimitable styles which paved the way for lively and fruitful discussions. But for their active participation and eloquent addresses, this Seminar would not have run the course that it took during these two days. May I extend our heartfelt gratitude to Hon. Vijaya Bhaskar Reddyji, Hon. Vasant Satheji and Hon. L.K. Advaniji for enlightening us with their valued Addresses and making this Seminar a resounding success.

Friends, the discussions at the Seminar threw light on the diverse aspects of the functioning of our Constitution. The deliberations were educative, illuminating and meaningful at once. The credit for this goes to every single one of the participants who turned up in such large numbers from all walks of life and professions—Union Ministers, Presiding Officers of States and Union Territory Legislatures, parliamentarians, jurists, constitutional experts, political scientists, academicians and journalists. They all possess rich and varied experience in their respective fields, particularly in the working of the Constitution. May I take this opportunity to extend my profound gratitude to all of them for their valuable contributions.

Ladies and Gentlemen, I am sure you will all agree with me that this Seminar has certainly made us more aware of the problems and prospects of the working of our Constitution. It has also given us ample food for thought on the challenges and the opportunities before us. As we have seen, during the last four decades, the Constitution has enabled us to address the myriad problems confronting us—political, economic and social. It has been an instrument for economic growth and social justice. While we all agree that much has been achieved in this regard since Independence, we are also unanimous when we say that much more remains to be done.

The Constitution provides for both stability and accountability. Our discussions here showed that these two concepts need not be contradictory, rather they are complementary. Yet, there is a need for ensuring greater stability without compromising on accountability.

Our Constitution contains provisions to maintain the unity and integrity of the country. But, there have been several serious threats to these fundamental concepts from forces within and without. It is heartening to see that the honourable participants were one in their opinion that these are critical areas which deserve immediate attention.

Friends, as you all know, a Constitution, when it is written is only a framework for action. It breaths life when it is operated by the human element. The Constitution of our country is a product of the cumulative wisdom of the giants of our freedom struggle. It is not a static concept. Far from it, our Constitution is a dynamic document which should guide us through thick and thin. No Constitution, like human beings, is perfect and the Indian Constitution is no exception to this general rule. What we have to keep in mind is that it is up to us, the practitioners of the Constitution, to make it a vibrant and viable blueprint to cope with the challenges of the times. I am sure that this is what it was intended to be by the founding fathers of our Constitution, especially Dr. Ambedkar. As Shri Shivraj Patilji said in his inaugural address, the nation would do well to follow Dr. Ambedkar's advice in many matters relating to the fundamental law of the country and the restructuring of the society.

While summing the proceedings of the Seminar, I would venture to bring to your notice some of the grounds that we have traversed and I should say the common grounds where we have found almost a consensus. That is:

1. The Constitution of India is a very good document and a workable one. It is a product of deep and profound thoughts which went into the concept, drafting and adopting in the Constituent Assembly. The founding fathers of the Constitution were national leaders who led the freedom struggle as well as a socio-economic upliftment movements and were visionaries, far-sighted and statesmen.

2. The basic features embodied in the Constitution are in keeping with the Indian ethos and the ancient values which we all hold close to our hearts and they need no changes.

3. Broadly there is a reaffirmation of the system provided in the Constitution.

4. The implementation of the Constitution needs to be done in keeping with its letter and spirit. Whenever it is found inadequate, necessary correctives may be considered.

5. However, there are some areas where changes in

the Constitution may be called for. What should be these changes and how these changes are to be brought about requires a close and careful consideration. A suggestion for having a National Commission to consider this matter and make recommendations made by Shri L.K. Advani and others needs serious consideration at all levels. I will request the hon. Speaker to carefully consider the points that have emerged out of the Seminar and take necessary action at his level, whatever he thinks fit.

Before I conclude, I have a duty towards the dedicated officers and the staff, especially the Secretary General, Lok Sabha, Secretary General, Rajya Sabha, the Members of their staff in the Research and Information Division and others including Reporters who have very very dedicatedly and seriously taken the task and sat through the proceedings of all the sessions of this Seminar. A special word of thanks for these dedicated young officers of Lok Sabha and Rajya Sabha.

Ladies and Gentlemen, the deliberations of this Seminar have enabled us to understand our Constitution better and work it better for the overall good of the country in the days ahead. I once again thank you all for making this Seminar a great success.

Thank you.

श्री युधिष्ठिर दास (उड़ीसा): चेयरमैन साहब, यह संगोष्ठी बीपीएसटी० और आईपीजी० ने आरगेनाइज की है। हम इसके लिए अत्यन्त आभारी हैं और संविधान के "परसेट और प्रेक्टिस" के बारे में जो बोले हैं, उन्हें धन्यवाद देता हूँ। आपने जैसा धीरज रखते हुए सेमिनार चलाया, उसके लिए विशेष धन्यवाद दे रहा हूँ। विधान सभाओं से जो लोग आए हैं तो उनको भी धन्यवाद देता हूँ। लोकसभा के सेक्रेटरी जनरल, ज्वॉइंट सेक्रेटरी और राज्य सभा के अधिकारी और कर्मचारियों ने भी अपना दायित्व समझकर इस संगोष्ठी को चलाया है, उसके लिए मैं उनका आभारी हूँ और आप सबको धन्यवाद देता हूँ।

Mr. Chairman: Our senior parliamentarian, Shri Sharad Dighe will propose a vote of thanks on behalf of Indian Parliamentary Group and the Bureau of Parliamentary Studies and Training.

Shri Sharad Dighe: Respected Buta Singhji and friends:

I also join my friend in extending hearty vote of

thanks to not only Parliamentary Group for Dr. B.R. Ambedkar Birth Centenary Celebrations and to the Indian Parliamentary Group and the Bureau of Parliamentary Studies and Training but particularly to you for having taken this initiative and having organised this Seminar at this juncture.

We are also thankful to the hon. Speaker of Lok Sabha for having joined and made this Seminar a success. This was the fittest tribute to Dr. Baba Saheb Ambedkar in his year of Birth Centenary.

The subjects chosen by you were also very relevant as far as the present context is concerned. Four keynote addresses were given, one by you which was very eloquent and thought Provoking; another by hon. Speaker; third one by the Leader of the Opposition and the fourth one by the Law Minister. These keynote addresses also gave us the gist of the subjects on which we could proceed.

I must also thank the Secretary-General and his colleagues for having given us the background papers on the subject and having made all arrangements which facilitated us to participate in the Seminar.

I again thank you and wish that such seminars will be held in different parts of the country.

Secretary-General, Lok Sabha: On behalf of our colleagues in Lok Sabha and Rajya Sabha Secretariats and on my own behalf, I wish to thank you and express our heartfelt gratitude to inspire us throughout to assist you in making this Seminar a reality.

I also take this opportunity of expressing our gratitude to the hon. Speaker, hon. Deputy Chairman, Rajya Sabha, hon. Deputy Speaker, Lok Sabha, all the hon. keynote speakers, hon. Ministers, parliamentarians, State presiding officers, judges, lawyers, journalists and other academicians and also all our honoured guests including our former colleagues who took the trouble of coming to attend this Seminar and make it a successful and useful one.

I also thank the Press who has given a good coverage to the Seminar.

(The Seminar then adjourned sine die.)

PART II
THEME PAPERS

I. CONSTITUTION OF INDIA AS AN INSTRUMENT FOR ECONOMIC GROWTH AND SOCIAL JUSTICE

The Constitution of a democratic society wells up from the people. It is a people's covenant, their charter of freedom and the blueprint of their future. And the Constitution of India is a unique document.

The Constitution of India is a sacred document in the sense that it reflects the soul of India, the personality of a timeless society, her distinct national ethos, the values and ideals, the hopes and aspirations and those beliefs and faiths that we as a people have come to cherish down the long years of our struggle for freedom. It symbolizes the unity of India's people and their sovereign will. The source of all power in our polity is the people. Our Constitution springs from the people and it subsists for the people, for their well-being and advancement. Pandit Jawaharlal Nehru in his speech in London on July 3, 1956, had observed:

“India has become a great democracy, perhaps the largest democracy in the world. She has fashioned herself a constitutional structure fit for free peoples with free Parliament and responsible executives based on free elections and open debate.”

Thus, quite obviously, our Constitution has been framed in a manner so that it can act as an instrument for economic growth and social justice for its citizens.

Indian Constitution is essentially a social document. It evisions a societal order which ensures the dignity of the individual and is based on principles of equality and justice—social, economic and political. It can be called and embodiment of the noble ideals and cherished goals of the leaders of our freedom struggle and in no small measure, the living spirit to guide the nation through the democratic path towards a secular, socialistic and egalitarian society.

The inception of the Indian Constitution was a great event not only in the political history of India but also in the history of human rights. The Constitution has opened up new vistas of growth through an array of rights and privileges to the citizens in general and backward classes in particular. Justice, liberty, equality and fraternity, time and again proclaimed as the inalienable rights of man, are

guaranteed by the Constitution. This objective finds expression in the Preamble, which clearly illustrates that the Constitution has realised the importance of justice, liberty, equality and fraternity for the success of democracy. The Preamble of our Constitution is a vivid social document because it includes socio-politico-economic justice, liberty and equality. The former Chief Justice of India, Mr. Justice Hidayathullah had once said:

“Our Preamble is at once a declaration of certain varieties in our constitutional life and also a prophecy..... The Preamble and the two chapters of the Fundamental Rights and Directive Principles of State Policy represent the kind of society we wish to create.”

The Preamble gives accent to justice in the social, economic and political sphere. Social justice demands the eradication of social inequalities based on caste, colour, creed, race, etc. Economic justice rules out distinction between man and man based on economic values. Every man is rewarded according to his labour. Political justice refer to the absence of arbitrary treatment of citizens in the political sphere—the right to exercise franchise and enter legislatures without any caste distinctions. The Constitution—makers were fully conversant with the fact that political freedom alone would be futile in the absence of social and economic justice and so they have guaranteed justice in all the three spheres. This idea of guaranteeing justice in the triple field was mooted in pre-Independent India. Rabindranath Tagore very lucidly brought out the significance of creating such justice when he said:

“Whatever weakness we cherish in our society, will become the source of danger in politics. The same interia which leads us to our idolatry of dead forms in social institutions will create in our politics prison—houses with immovable walls. The narrowness of sympathy which makes it possible for us to impose upon a considerable portion of humanity the galling yoke of inferiority, will assert itself in our politics in creating the tyranny of injustice.”

A major characteristic of the Indian society that emerged as an independent entity after World War II, is its aspiration for improving the standard of living of the people. India, having obtained political independence in 1947, had to cope up with the monumental task of bringing far reaching socio-economic and cultural changes so as to reorganise the country's feudal and colonial social structure, and to put an end to economic backwardness and create a modern diversified economy as the foundation of its new independent development. Given the existing socio-economic conditions, at least a minimum of four goals had to be pursued. These were: (i) the independence of the economy from its reliance on strategic imports and foreign aid (the goal of self-sustained growth); (ii) resources mobilisation and capital accumulation leading to increasing rates of saving and investment (the goal of a high rate of growth); (iii) reduction of sectoral, regional and social disparities (the goal of equality); and (iv) the simple concern with providing minimum conditions of subsistence and survival (the goal of equity and justice).

The Constitution-makers of India were convinced that a rapid economic growth oriented in a socially approved direction, could best be attained in a planned economy within the framework of a democratic pattern of socialism. It was an approach that sought to combine goals of economic development and reduction of social disparities. Accordingly, the Constitution of India on the one hand established a Democratic Republic and Parliamentary government where State was supposed to play an active role as a 'welfare state' in the process of socio-economic development, and on the other enshrined in the Fundamental Law several provisions protecting the rights, privileges and liberties of the people. Thus, it committed itself fully to the egalitarian and socialistic goal of our freedom movement. The concept of a 'welfare state' embodies itself in the Directive Principles of State Policy. According to these principles, the aim of the State is the banishment of poverty and production of wealth and an equitable distribution thereof amongst all who contribute towards its production. In fact, Chapter IV of our Constitution is a chapter of socio-economic revolution. Justice J. Reddy rightly observed:

"The object of fundamental rights is to ensure the ideal of political democracy and prevent authoritarian rule, while the object of the Directive Principles is to establish a welfare state where there is economic and social freedom without which political democracy has no meaning."

Way back in 1928, Mahatma Gandhi had expressed his views about India's economic constitution in the following words:

"According to me, the economic constitution of India, and for that matter of the world, should be such that no one under it should suffer from want of food and clothing. In other words, everybody should be able to get sufficient work to enable him to make two ends meet. And, this ideal can be universally realized only if the means of production of elementary necessities of life remain under the control of the masses. These should be freely available to all as God's air and water are, or ought to be; they should not be made a vehicle of traffic for the exploitation of others. Their monopolisation by any country, nation or group of persons would be unjust".

The socio-economic justice guaranteed by the Preamble can hardly be achieved if the democracy envisaged by our Constitution is confined only to a 'political democracy'. And 'Political democracy', in the words of Pandit Nehru, by itself is not enough except that it may be used to obtain a gradually increasing measure of economic democracy, equality and the spread of good things of life to others and removal of gross inequalities.' Dr. Radhakrishnan was also of the view that "Poor people who wander about, find no work, no wages and starve, whose lives are a continual round of sore affliction and pinching poverty, cannot be proud of the Constitution or its law".

In short, the Constitution of India itself has provided enough scope for social justice. It promises not only 'political' but also 'social' democracy, as explained by Dr. Ambedkar in his concluding speech in the Constituent Assembly:

"Political democracy cannot last unless there lies at the base of its social democracy. What does social democracy mean? It means a way of life which recognises liberty, equality and fraternity which are not to be treated as separate items in a trinity. They form a union of trinity in the sense that to divorce one from the other is to defeat the very purpose of democracy'. Liberty cannot be divorced from equality, equality cannot be divorced from liberty. Nor can liberty and equality be divorced from fraternity."

Keeping in mind these noble objectives, our Constitution-makers envisaged to abolish inequality and ensure equal sharing of the national cake by all. The Constitution was designed to act as an instrument of economic salvation of the masses, *i.e.* to remove the

curse of poverty and raise the standard of the people. Chapters III and IV of the Constitution, which deal with Fundamental Rights and Directive Principles of State Policy are meant specifically to fulfil these objectives.

A developing country cannot attain prosperity unless State intervenes or takes initiative in this matter. Chapter IV of the Indian Constitution, requires to secure for the citizens, men and women equally, the right to an adequate means of livelihood; equal pay for equal work; protection against abuse and exploitation of workers' economic necessity; the protection of their health and strength as also of children of tender age and youth, against exploitation and moral and material abandonment. Within the limits of its economic capacity and development, it is required to make effective provision for securing the right to work, to education and to public assistance in case of unemployment, old age, sickness or disablement and in other cases of undeserved want. It is also required to make provision for just and humane conditions of work and for maternity relief. Besides, the State is required to secure work, a living wage and conditions of work ensuring a decent standard of living for the people.

Without education, economic progress is not possible. Therefore, under the Directive Principles, the State is required to endeavour to provide free and compulsory education to all children until they complete fourteen years of age within ten years of the commencement of the Constitution.

As economy develops, disparity in the distribution of income and wealth takes place. The rich people become richer and the poor become poorer. The State, must therefore, adopt suitable measures to eradicate inequalities. The Constitution of India directs the State to secure better distribution of the resources of the community, to check the evils of concentration of wealth and means of production leading to common detriment and to secure a uniform civil code throughout the territory of India. Besides, there must be an end to all forms of economic exploitation and concentration of power. For this purpose, the fundamental right against exploitation has been given to the citizens in Articles 23 and 24 of Chapter III of our Constitution wherein forced labour, child employment and traffic in human beings are declared offences punishable in accordance with the law.

In order to initiate and accelerate the process of economic development, a planning machinery was required. The idea for such a measure has been

incorporated in the Directive Principles of State Policy in our Constitution which sought to imbibe the principle of economic democracy. In fulfilment of this idea, the Planning Commission was set up in March, 1950 by a resolution so that a process of development which will raise living standards and open out to the people new opportunities for a richer and more varied life, could be initiated. The Five Year Plans have now become almost a permanent feature of Indian planning machinery. These Plans are intended to further the Directives given in Part IV as has been made clear by the Second Five Year Plan Document which states:

“Essentially this means that the basic criterion for determining the lines of advance must not be private profit but social gain, and that the pattern of development and the structure of socio-economic relations should be so planned that they result not only in appreciable increases in national income and employment but also in greater equality in incomes and wealth. Major decisions regarding production, distribution, consumption and investment, and in fact all significant socio-economic relationships must be made by agencies informed by social purpose. The benefits of economic development must accrue more and more to the relatively less privileged classes of society, and there should be a progressive reduction of the concentration of incomes, wealth and economic power. The problem is to create a milieu in which the common man who has so far had little opportunity of perceiving and participating in the immense possibilities of growth through organised effort is enabled to put his best in the interests of a higher standard of life for himself and increased prosperity for the country.”

Thus, while passing through an era of planned economic development, a struggle has started against poverty, ignorance, disease and inequalities. Solving these problems has been our primary concern all these 40 years since 1950-51, and our efforts to attain the cherished goal will continue.

A Welfare State has to see that with the economic advancement, social justice is also guaranteed to its citizens. Now, what is social justice? It is difficult to give a precise definition of the term. William K. Frankena has defined it in the following words:

“Social justice is any system of distribution and retribution, which is governed by valid moral principles.”

The figure of personified justice holding a balance and a sword symbolizes that justice is ‘fairness’

enforced by 'force'. And the Preamble to the Indian Constitution has this justice in mind. Justice is the final principle which controls the general distribution of rights and the various principles of their distribution. In other words, it is the general right ordering of human relations in, and by, the association of the State. In this context, it gives to each principle of distribution—liberty, equality and fraternity or cooperation—its share. The idea of justice resides in all minds, as developed through the ages by a process of historical social thought. It has thus become a common inheritance of mankind—it is a social reality and an actual content of actual minds.

Social justice is linked with social reforms, social welfare and social legislation. Social justice furnishes the ideological basis for social reform and welfare. However, social justice is rooted in social equality. Everyone has equal rights basically compatible with similar liberty of others. Social and economic inequalities are to be adjusted in such a way that they are both reasonably expected to be everyone's advantages and attached to positions and offices open to all. Both these aspects depend upon the kind of structure of the society. Liberty is relevantly related to the concept of justice, and in determining what is "social justice", the primary subject of justice, according to John Rawls is the 'basic structure of the society or more exactly the way in which the major social institutions distribute fundamental rights and duties and determine the division of advantages from social cooperation.'

The Directive Principles embodied in Articles 37 to 51 of the Indian Constitution are a 'complex of virtues' and the 'life giving provisions of the Constitution' which contain active obligations of the State. Some of the provisions of the Directive Principles specially deal with socio-economic justice. Article 38 provides. "The State shall strive to promote the welfare of the people by securing and protecting, as effectively as it may, a social order in which justice—social, economic and political—shall inform all the institutions of national life." This Article is the keystone of the Directive Principles. It is a directive to the State to effectuate the hopes expressed in the Preamble to our Constitution by securing a social order for the promotion of the welfare of the people. As Justice K.S. Hegde puts it: 'It is a star by which we are expected to chart our course.' The object of this Article is to promote the welfare of the people by establishing a particular kind of social order. Hence public welfare through justice is the core of the Article. The ideal of social justice, as given in the Preamble, is repeated in this Article

with an addition in two respects: firstly, the justice is to be translated into a social order in which justice—social, economic and political—shall inform all the institutions of the national life; and secondly, the object of establishing such a social order is given—such object being the welfare of the people. Thus, the ideal set forth in the Preamble is amplified and clarified in this Article.

Article 39 lays down the principles of policy to be followed by the State. The Article says that the citizens, men and women, equally have the right to an adequate means of livelihood; that the ownership and control of the material resources of the community should be so distributed as best to subserve the common good; that the operation of the economic system should be such as not to result in the concentration of wealth and means of production to the common detriment; that there should be equal pay for equal work for both men and women, and the tender age of children is not abused; and that citizens are not forced by economic necessity to enter avocations unsuited to their age or strength; that childhood and youth are protected against exploitation and against moral and material abandonment.

This Article (39) emphasizes some of the methods by which the goal of general welfare through justice translated into the terms of a new social order, is to be achieved. The Article contains six clauses which broadly fall into two divisions. Clauses (a), (d) and (f) deal specially with the welfare of workers, and clauses (b) and (c) deal with the distribution of wealth.

Thus, according to this Article, the State is required to ensure for its people adequate means of livelihood, fair distribution of wealth, equal pay for equal work and protection of children and labour. Article 39 (b) and (e) together with other provisions of the Constitution contain the main objectives, namely, the building of a welfare society and an egalitarian social order in the Indian Union. While envisaging development in social, economic and political fields, the Constitution makers did not desire that it should be a society where a citizen will not have the dignity of the individual. It has been held that a law aimed at the doing away with the concentration of blocks of lands in the hands of few individuals would subserve the directives contained in sub-clauses (b) and (c) of Article 39. The constitutional directive in Article 39 (d) will be disobeyed if the State attempts to make a distinction between the same class of labourers on the ground

that some of them are employed by a company financed by the State and others by companies floated by private enterprise.

Objectives of Article 39 have been reiterated in several other Articles also specially in Articles 41, 42, 43 and 47. Equality between men and women has been enjoined in our Constitution in all the social and economic spheres of life. The Government of India has evinced keen interest for the upliftment of women and has formulated a variety of measures from time to time in this direction. By setting up the National Commission for women recently, in accordance with the National Commission for Women Act, 1990, a long-felt need has been fulfilled. The Commission, besides studying and monitoring all matters relating to the constitutional and legal safeguards provided for women, will also review the existing legislations made to protect women's rights and suggest amendments wherever necessary. It will also look into the complain and take *suo motu* notice of the cases involving deprivation of the rights of women and provide support, legal or otherwise, to helpless women. It has wideranging powers and can even function as a full-fledged civil court with the attendant authority to summon witnesses and ask for the production of any document relating to the case it hears. Besides, it is incumbent upon the Government to consult the Commission on all major policy matters concerning women.

The Directive Principles also direct that the State shall take steps to organise village panchayats and endow them with such powers and authority as may be necessary to enable them to function as units of self-government. The State shall, within the limits of its economic capacity and development, make effective provision for securing the right to work, to education and to public assistance in cases of unemployment, old age, sickness and disablement, and in other cases of undeserved want. The State shall make provision for securing just and humane conditions of work and for maternity relief. The State shall endeavour to secure, by suitable legislation or economic organisation or in any other way, to all workers—agricultural, industrial or others a living wage, conditions of work ensuring a decent standard of life and full enjoyment of leisure and social and cultural opportunities. And, in particular, the State shall endeavour to promote cottage industries on an individual or cooperative basis in rural areas. The State shall take steps, by suitable legislation or in any other way, to secure the participation of workers in the management of undertakings, establishments or other organisations engaged in any industry.

Further, Article 46 stipulates socio-economic justice for the weaker sections of the society. It aims at the upliftment of backward communities, especially Scheduled Castes and Scheduled Tribes. It also places on the State the duty to protect them from social injustice and all forms of exploitation.

Our Constitution makes special provisions for reservation of seats for the socially and economically backward sections of our population, that is the Scheduled Castes and Scheduled Tribes in the House of the People (Lok Sabha), the number of seats so reserved being in proportion to their population in the States or Union Territories. The system of representative from of government would have been meaningless without these provisions. Besides that, efforts have also been made to promote the welfare of the Scheduled Castes and Scheduled Tribes and other Backward classes. In the year 1951, Parliament, in pursuance of article 46 of the Constitution, amplified the scope of article 15 by adding clause (4) to this article, enabling the State to make laws for the benefit of the socially and educationally Backward Classes and Scheduled Castes and Tribes. Similarly, article 16 (4) provides for making any provision for reservation of appointments or posts by the State in favour of any backward class of citizens which, in its opinion, is not adequately represented in the services under the State. The Constitution has also prescribed certain protective measures and safeguards for these Classes either specifically or by way of insisting on their general rights as citizens with a view to promoting their educational and economic interests and removing the social and economic disabilities they are subjected to. Accordingly, the Parliament, by law, has recently constituted a National Commission for Scheduled Castes and Scheduled Tribes for the effective implementation of those safeguards and other measures for the protection, welfare and socio-economic development and advancement of the Scheduled Castes and Scheduled Tribes.

According to Granville Austin a noted political Scientist, a majority of the provisions of the Constitution of India are either directly aimed at furthering the goals of social revolution or attempts to foster this revolution by establishing the conditions necessary for its achievements. The core of the commitment to the social revolution lies in Fundamental Rights and Directive Principles of State Policy. The Fundamental Rights seek to ensure freedom or liberty of the individual against coercion or restriction by the State. The Directive Principles

aim at creating the material conditions for the enjoyment of freedom and liberty. The Chapters reflect the philosophy of the Indian National Movement for bringing about not only a national revolution but also a social and economic revolution.

The inclusion of a set of Fundamental Rights in India's Constitution had its roots in the forces that operated in the national struggle during the British rule when the British resorted to arbitrary acts such as brutal assaults on unarmed satyagrahis, internments, deportations, detentions without trial and muzzling of the press. The Freedom Struggle gathered momentum after the First World War. Thereafter, clashes with the British authorities in India became increasingly frequent and sharp. The harshness with which the executive operated its repressive measures, strengthened the demand for constitutional guarantees of Fundamental Rights. As a result, the Indian National Congress in its various sessions firmly laid down that the basis of the future Constitution must be a declaration of Fundamental Rights. Besides, we must understand that the founding fathers of our Constitution were persons with vision and passion—they were learned lawyers, national leaders, freedom fighters statesmen endowed with wisdom, dynamism and pragmatism, and above all, members who, with diverse perspectives and political objectives, deliberated solemnly for years to fabricate a fundamental law for the governance of the country, breaking with the British regime and ushering in a revolutionary scheme.

Through the provision of Fundamental Rights, the Constitution of India offers all citizens individually and collectively the best fruits of democracy and those basic freedoms and conditions of life which alone make life significant and productive.

The first and foremost Fundamental Right is the Right to Equality. Equality is the most vital aspect of justice. There are various concepts of equality envisaged under our Constitution such as political, egalitarian, numerical, meritarian and proportional. Politically it makes the citizens equal by establishing the rule of law and securing for them equality before the law and equal protection of the law. Right to vote has been given to all adult citizens above the age of 18. This is an example of egalitarian or numerical equality. The principle of meritarian equality means prohibition of discrimination on the ground of religion, race, caste, sex, etc. included in Article 15(1) and (2), 16(1) and (2), 17, 29(2) and 325 of the Constitution. The Rights to Freedom under Articles 19 to 22 and Articles 25 to 28 guarantees certain

liberties to all the citizens, for example, freedom of expression, movement, forming associations, religion, protection of life and personal liberty, etc.

The Constitution has also promised an all out war against untouchability. It has abolished as a matter of fundamental right, untouchability and bonded labour under Articles 17 and 23 respectively. It has declared, and that is truly unique, that it shall be an offence to enforce any disability on the ground of untouchability.

The Constitution is like an orchestral piece that comes alive and can be appreciated only in actual performance. A Constitution, howsoever nobly conceived, acquires its flesh and blood only in the matrix of practical politics. In order to materialize the instrumentality of our Constitution for establishing socio-economic justice, the struggle has to be waged continuously and for longer period.

Thus, the Right to work, Right to food, Right to clothing, Right to shelter and Right to medical aid are the rights without which it is difficult to say that the citizens are given right to live so that they can enjoy other fundamental rights to have better prospects of living. In addition, the Right to education at least upto the secondary level, is the *sine qua non* for making the citizens capable of helping themselves, others, the nation, the society and the world. Therefore, it is of paramount importance that these rights are provided to the people and are made enforceable and justiciable.

Moreover, there has to be, in our Constitution, an effective institutional mechanism for better cooperation, consultation, coordination and guidance between the Union and the States which will keep them together and thus, help them to become more effective in their efforts to provide socio-economic justice to their subjects.

Since economic planning is a must for using the scarce resources in the best possible manner to produce beneficial results in the shortest possible time, the Constitution may have a chapter on planning, providing for institutions at the centre, State and district levels for short terms, long term and perspective plans.

Finally, the laws and courts are meant to do justice. In order to avoid their misuse and unnecessary delays in disposal of cases, the laws should be thoroughly examined, centralised and crystallised so as to achieve the ends of justice. Besides, given the importance of awareness of people with regard to their rights and duties, legal education

should be provided to them through adequate constitutional instruments and arrangements.

Efforts to provide socio-economic justice to the people at large is an on-going process wherein all the sections of the society have to contribute their mite

so as to usher in an era of peace and progress. In the language of Winston Churchill one can only conclude: "This is not the end. It is not even the beginning of the end. But it is, perhaps, the end of the beginning."

SOURCES CONSULTED

1. K.S. Hegde: *The Constitution and the people (The Journal of Parliamentary Information, Vol. XXV, No. 3, July-September, 1979, pp. 332—339).*
2. Manju Kumar—*Social Equality*, New Delhi, S. Chand, 1982.
3. Raj Bahadur Srivastava—*Economic Justice under Indian Constitution*, New Delhi, Deep & Deep, 1989.
4. B.N. Ghosh & Rama Ghosh—*Economic Growth, Development and Planning*, New Delhi, Deep & Deep, 1991.
5. *The Constitution of India.*
6. Ratna G. Revankar—*The Indian Constitution — A Case Study of backward classes*. New Jersey, Associated University Presses, 1971.
7. K.S. Hegde—*Directive Principles of State Policy in the Constitution of India*, Delhi, National, 1972.
8. B.N. Sharma— *Socio-Economic Justice under Indian Constitution*, New Delhi, Deep & Deep, 1984.
9. R.N. Gupta— *Indian Constitution & Civic Life*, Allahabad, Kitab Mahal, 1960.
10. Sachchidanand Pd. Sinha— *Perspectives on Social Justice*, Delhi, Capital, 1991.
11. Ram Jee Singh: *Social legislation and social change (The Journal of Parliamentary Information, Vol. XXVI, No. 2, June, 1980, pp. 154—164).*
12. V.R. Krishna Iyer— *A random miscellany legal and other*, New Delhi, People's Publishing House, 1984.
13. D.D. Basu— *Commentary on the Constitution of India*, Calcutta, S.C. Sarkar, 1973.
14. Oneil Biswas— *From Justice to Welfare*, New Delhi, Intellectual, 1985.

II. ACCOUNTABILITY VS. STABILITY

Over the years, the Parliament of India has evolved into a multi-functional institution and has come to represent the people's hopes and fears, urges and aspirations. It is the supreme representative forum in the country deriving its legitimacy and sustenance from the people. Every action of the Parliament is viewed with searching eyes by the masses, for each and every one of its action does definitely affect their day-to-day lives. It is essential a symbiotic relationship that exists between the people and the Parliament. They act and interact, in a two-way relationship, each nourishing and enriching the other. Without one the other is incomplete. If one suffers, the other is also bound to be affected. The Parliament is a living dynamic institution which should ever be able to monitor the needs and hopes of the people. It has to act as a beacon of guidance to the executive and administrative machinery so that the right initiatives and approaches are attempted towards effecting social transformation.

By virtue of its position as the supreme representative institution in the country, the Parliament has, over the past four decades, come to play a vital role in shaping the destinies of the people in different ways. Successive general elections—the tenth general elections were held in June 1991—to elect members of the Lok Sabha bear ample testimony to the people's unweaving commitment to and unflinching faith in peaceful change. Millions of people exercise the franchise in favour of candidates representing various political ideologies. The multiplicity of political parties enable them opportunities of choosing a candidate of any party they favour. The general elections are also a permanent reminder to these parties that what ultimately matter is the will of the people which cannot be taken for granted. Once elected, they have always to keep in mind the fact that every action of theirs is being closely watched by their constituents. The elected representatives also cannot afford to let down the electorate for, on the dissolution of the Lok Sabha, they have to go back and face elections again.

The founding fathers of our Constitution, after having given serious thoughts and deliberating in detail on the political system for the nascent democracy, opted for the parliamentary form of Government for the country. They, thus expressed

their faith and confidence more in parliamentary system rather than in the presidential form of Government.

The basic principle of a parliamentary form of Government is the control of the Parliament over the Executive action. Accountability, in essence, connotes the Government's obligation to reveal, explain and justify its policies and actions to the legislature. Accountability, is real to the extent that the Legislature is able to oversee and scrutinize governmental activities and, thereby, to satisfy itself that public policies remain apposite to the needs and aspirations of the people and that the governmental programmes are efficiently implemented.

Primarily, parliamentary control means a control over the Executive actions in the sense that Parliament has a right to express its agreement or disagreement with the way the Government intends to orient or has oriented its activities. In the second place, parliamentary control which involves the detailed examination of Government activities, may cover both preliminary intervention, *i.e.*, before a policy is adopted or an *ex post facto* supervision, *i.e.*, after the policy has been implemented.

Like the British Constitution, we have adopted the principle of collective responsibility of the Council of Ministers except as to the legal-responsibility of individual Ministers for acts done on behalf of the President. This principal has been codified under article 75(3) of our Constitution:

“The Council of Ministers shall be collectively responsible to the House of the People”.

So, the Ministry, as a body, shall be under a constitutional obligation to resign as soon as it loses the confidence of the popular House of Legislature. The collective responsibility is to the House of the People even though some of the Ministers may be members of the Council of States. Of course, instead of resigning, the Prime Minister who heads the Cabinet is competent to advise the President to exercise his power to dissolve the Legislature on the ground that House does not represent the views of the electorate faithfully.

While the Council of Ministers and Parliament are closely inter-linked, there is a clear distinction between the functions of the Executive and the functions of Parliament. Broadly speaking, the

Executive has vast freedom in shaping policies and taking steps to implement those policies, and Parliament has the unlimited power to call for information and to verify *ex post facto* that the Government and the administration have acted in conformity with their obligations and utilized the powers conferred upon them for the purposes for which they were intended.

The first requisite to effective supervision of the Executive by Parliament is complete and proper information on the activities of Government. Parliament has a right to receive unlimited information, the only self-imposed restriction being that if divulging of certain information is prejudicial to the safety of the State, it may not be given. It is the duty of the administration to feed Parliament with information and it is done by various ways. The most formal method, where the members call for information, is by asking questions in Parliament. The Government also, on its own, feeds Parliament with information. The most formal method of giving information to Parliament is to place the papers on the Table.

The first hour of every sitting of Parliament is devoted to the asking and answering of questions. This is perhaps the most important hour as far as the day-to-day business of the House is concerned. The administration is accountable to any or every member of Parliament for what they have done or not done, or are doing and in some cases, propose to do. Not a single aspect of administration is left out. A piercing search-light is thrown on every nook and corner of the vast length and breadth of administration and nothing falls outside the scrutiny of Parliament. Every member considers this a valuable right and this is one of the surest and quickest ways of bringing administration to book for any lapse on their part. Answer to questions reveal at once how each department is functioning and its level of efficiency.

Parliament has tremendous scope to influence the Executive and make it accountable. During the debate and discussion on legislative proposals or Financial Bills or motions to consider and approve government policies, members are free to express themselves and to suggest what is good for the country and what modifications of the existing policy are required. Government, of course is sensitive to parliamentary opinion; in most cases they anticipate it. During discussions, members have full liberty to criticise the administration for their past performance and suggest how they should behave in

the future or how a particular measure should be carried out or implemented.

However, Executive or ministerial responsibility to Parliament or what is often termed parliamentary control over the Executive or the Government is based on: (i) the constitutional provision of collective responsibility of the Council of Ministers to the popular House of Parliament; and (ii) Parliament's control over the Budget.

In both matters, parliamentary control over the Executive is political in nature. The answerability of the Executive is direct, continuous, concurrent and day-to-day. When Parliament is sitting, the continuance of the Government in office depends from moment to moment on its retaining the confidence of the House of the People. The House may, at any time, decide to express its lack of confidence in the Government by a majority vote; *i.e.*, if the ruling party loses the support of the majority of the members of the House, its Government goes. When the House clearly and conclusively pronounces that the Government of the day does not command its support, the Government must resign. Want of parliamentary confidence in the Government may be expressed by the House of the People by: (a) passing a substantive motion of no-confidence in the Council of Ministers; (b) defeating the Government on a major issue of policy; (c) passing on adjournment motion; and (d) refusing to vote supplies or defeating the Government on a financial measure.

The various procedural devices like the system of Parliamentary Committees, Questions, calling attention notices, half-an-hour discussions, etc. through which the Parliament gets informed, also constitute very potent instrument for effecting parliamentary surveillance over administrative action. Significant occasions for review of administration are provided by the discussions on the Motion of Thanks on the President's Address, the Budget demands, and particular aspects of governmental policy or situations. These apart, specific matters may be discussed through motions on matters of urgent public importance, private members' resolutions and other substantive motions.

The experience of the working of the Parliamentary Committees in India has shown that the Committees, composed of members of various parties as they are, promote a corporate sense among members, which, in turn, contributes to the consideration of matters on merits and in a non-partisan manner. Membership of the Committees has

also encouraged some degree of specialisation among members in particular fields and helped them in developing a certain proficiency and expertise in the techniques of inquiry into the complex working of Government departments.

While the useful work done by the Committees in enforcing Executive accountability to Parliament is acknowledged on all hands, the fact remains that constituted as the Committee system in the Indian Parliament is at present, it can hardly be expected to keep effective surveillance over the entire gamut of governmental activity on a regular and continuing basis. In recent years, there has been considerable discussion on the question of the reforms or reorganisation of the committee system in Parliament, as well as in the State Legislatures, particularly with a view to achieving a wider and more effective scrutiny of governmental activities. It is felt that more and more committees need to be set up to control the functioning of the Executive, either Standing Committees in respect of various Ministries to review the working of the different Ministries on a continuing basis or some new Standing Committees to be concerned exclusively with certain important aspects of governmental activity, such as public finance, planning, defence transportation, etc. The setting up of three Subject Committees in Parliament is one such step in this direction.

Our Constitution has made the Executive accountable to the Parliament in all the matters-law-making, policy formation, implementation of policies, financial regulations, etc. This is clearly demonstrated by the power of the Parliament to discuss the policies of the Government and its general working at the time the Motion of Thanks on the President's Address is debated and more so through its power to approve the Budget making the Government fully accountable to it in the matter of finances, etc.

The various parliamentary procedures thus afford ample opportunities for the daily and periodic assessment of ministerial responsibility and administrative accountability and for criticising and influencing Government policy as well as for ventilating people's grievances. Expressions like control and overseeing are likely to give an impression of an unequal relationship between Parliament and the Executive. Actually, the close association and intimate involvement of Parliament and the Executive are the characteristic features of the parliamentary system of government. The relationship between the Executive and Parliament is this one of inter-dependence based on mutual trust

and confidence. The ideal situation would be a state of dynamic and creative equilibrium where, in an atmosphere of mutual respect and confidence, the Executive enjoys all the freedom it needs, remaining at the same time responsive to parliamentary influence and direction, where the Parliament respects the Executive and the Executive experiences parliamentary influence all the time.

However, the political environment as has developed over the years after independence in the country and more particularly the political scenario emerging after the last two general elections, has generated a debate as to how accountability, the basic principle of the parliamentary form of Government, should be brought in consonance with the desired stability. Precisely, the situation calls upon everyone entrusted with the responsibility of administration to apply his mind to this complex issue. To tide over the problem, people have suggested that to ensure stability, we should think of having the presidential form of government instead of the parliamentary form.

The content and form of parliamentary control over the Executive vary from country to country depending upon the type of Constitution it has adopted. In a country which has accepted the theory of separation of powers, as in the United States of America, parliamentary control over the Executive is quite different from that in a country like India where the Council of Ministers is responsible to Parliament. In the former case, the Ministers do not have to justify their policies before Parliament and they cannot be called to account on the floor of the House nor can they be dismissed by a vote of Parliament. But where the Ministers are responsible to Parliament and they depend for their continued existence as Ministers on the vote of Parliament, parliamentary control is direct and more exacting.

In a Presidential form of Government, the Executive is quite stable for the period for which it is elected. In USA, the President, who is the real Executive, is stable for a period of four years. He is answerable to the people. But he cannot be removed from his position for any wrong policies followed by him or for anything done by him in his official capacity by the Senate or the House of Representatives. Certainly he can be impeached for his personal misbehaviour, but not for formulating, following or implementing wrong policies.

No doubt, the presidential form of Government ensures a greater stability, but it also ignores the accountability of the Executive to the representatives

of the people. In the presidential form of Government, the Minister is not a member of the Legislature. Further, the Executive in such form of Government can more frequently by-pass the Legislature and, as such at times Executive action is not likely to be in line with the desires and aspirations of the people; this possibility is less intense, if not remote, in the parliamentary form of Government.

There are other forms which contain provisions for making the Government accountable as well as stable.

The present French Constitution is an example of this kind of arrangement. The president is elected by more than 50 percent of the voters. If in the first election more than 50 percent votes are not secured by the candidate, then he is not declared elected. Within seven days' time or any other fixed time, a second election in which only those two candidates who get the highest number of votes are allowed to contest has to be held only he who gets more than 50 percent of votes is declared elected. The President is then quite stable for the next seven years. He cannot be removed by the National Assembly. If the National Assembly has to pass a No-Confidence Motion against the President, it has to be passed by 2/3 majority and even if the National Assembly passes a No-Confidence Motion by 2/3 majority, the President need not go, but he can dissolve the National Assembly and hold fresh elections. In the next round of elections, if the members who get elected again pass No-Confidence Motion by 2/3 majority only then the President is removed. There is also a Council of Ministers headed by the Prime Minister. The Prime Minister and the Council of Ministers are accountable to the National Assembly. The Prime Minister or the Council of Ministers can be removed by a simple majority. Thus, in the French system, we see that there are provisions to ensure that the President is stable for the period elected and the Council of Ministers is fully accountable to the National Assembly.

In short, while parliamentary form of Government ensures a greater accountability of the Executive to the popular House of the Legislature and consequently to the people, the presidential form of Government ensures greater stability. In fact, it is not the inherent weakness of the parliamentary system that is responsible for the instability. If one looks at the history of political growth after Independence in our country, one finds that it is not the system of parliamentary democracy which has caused political

instability but that there are various factors which are responsible for this. These, *inter alia*, include: (i) Development of multi-party system; (ii) Lack of adequate electoral reforms; (iii) Absence of a mechanism to ensure the installation of a majority Government as reflected by the percentage of votes polled by the ruling party; and (iv) Increasing tendency for defections, etc.

A study into these factors would reveal that the existence of too many political parties is a major factor responsible for the fragmentation of votes. The net result of such fragmentation is that votes polled by the ruling party constitute only a minority as compared to votes polled by all the Opposition parties taken together. It is evident from the fact that in the first general elections in 1952, while the Congress Party came to power securing only 45 per cent votes but winning 74.4 per cent of the total seats, the Opposition parties together secured 55 per cent votes and won only 25.6 per cent of the seats. The disparity between votes and seats widened further in the subsequent elections. This led to the formation of successive Governments at the Centre which were essentially minority Governments in terms of the votes secured. Starting 1980, we are witnessing a new phenomenon minority government with majority support from outside. The Government formed during the tenure of the Ninth Lok Sabha amply proved the political connotations of such experiments. Now, we have a minority Congress (I) Government at the Centre even in terms of the seats secured by it and its allies.

The situation is further aggravated by the increased tendency for defections which create an atmosphere of political instability. There exists an anti-defection law, but this law disqualifies defecting legislators only if their number is less than one third of the total strength of their party members in the concerned Legislature. This has encouraged prospective defectors to engineer defection by an adequate number to avoid disqualification ultimately leading to a change in Government. Any new government formed through such procedures is itself unstable because its supporters are vulnerable to further defections. The recent developments in view of defections in several States and the subsequent application of the provisions of the anti-defection law has brought into focus the inherent lacunae in the law. It has also created a situation wherein the relationship between the Legislature and the judiciary has been put under some stress.

The pattern of elections and related matters also need to be seriously debated upon by all concerned. The alleged role of power in elections has also contributed to the atmosphere of political instability. There has been a strong and positive demand for state funding of political parties securing a stipulated minimum percentage of votes for electioneering. Such funding would perhaps discourage the undesired and opportunistic creation of political parties which are to a great extent responsible for the fragmentation of votes.

How then can stability be reconciled with the requirement of accountability? Is it possible to achieve this in India within the framework of parliamentary democracy? Before attempting to give a definite answer to this question, it is worth recalling that a similar problem existed in former West Germany, which was resolved to a great extent through electoral reforms. The election there were held through a dual system—a part of Parliament was elected, as in India, through a Single member constituency system, while the remaining part was elected on the basis of a 'List System'. In the later, every voter was required to indicate his preference for a party. The vote was not for an individual candidate but for the party. The percentage of votes secured by each party was then calculated, and through a suitable formula, additional parliamentary seats were allotted. Prior to elections, each party used to submit a list of candidates in order of preference. It was from this list that additional candidates were allotted on the basis of the percentage of votes polled by the party. Through this system, the disparity between the votes polled and seats won was reduced as also the probability of a hung Parliament.

The multiplicity of parties, which causes the splitting of votes, had been considerably reduced in the West German model through State-funding of elections. The Government gave financial assistance to parties which had polled a minimum prescribed percentage of votes in the previous elections. Since small splinter parties could not fulfil this conditions, they gradually merged with the bigger but ideologically like-minded parties. The reduced political fragmentation also resulted in narrowing the gap between the votes polled and the seats won. State-funding of elections can also reduce corrupt electoral practices since the minimum finances needed by a party candidate who has genuine electoral support are made available to him.

To conclude, undoubtedly accountability and stability are two essential requirements of any healthy

political system. In fact, accountability as a principal does not work counter productive to stability in the parliamentary form of Government, but it is only the other factors working within the system, which give occasion to instability. Thus, if a package of adequate reforms, both electoral and otherwise are adopted and implemented we can develop and strengthen our present system of parliamentary democracy with sufficient accountability of the Executive to the Parliament without sacrificing political stability.

Without making big changes, it is also possible to introduce some provisions as described below in the Constitution which can make the Government more stable; and also to overcome some of the difficulties which are encountered in having the Prime Minister or in ascertaining whether he has the requisite backing or not.

1. The Prime Minister may be elected by the members of the Lok Sabha. If he is to be removed, another person has to be elected to be the Prime Minister. Only on the election of the other person, it can be supposed that the Prime Minister elected previously has lost the requisite majority.

2. The election of the Prime Minister can be done with the support of an absolute majority of the members of the House and not with the simple majority.

3. The Prime Minister can be elected by 2/3 majority of the members in the House. That would provide a greater stability.

4. The Prime Minister can be elected by the majority of the members in both the Houses, that is the Lok Sabha and the Rajya Sabha. This would also provide a greater stability.

5. The Prime Minister can be elected by 2/3 of the members of both the Houses. This model would provide for a very stable Government.

6. The Prime Minister may be elected by the majority of the members of both the Houses. However, a no-confidence motion can be passed by 2/3 majority of the members of both the Houses. It would also provide a durable stability.

7. The Prime Minister may be elected by the majority of the members of the Lok Sabha. However, he should be removed from his post only if 2/3 of the majority of the members of the Lok Sabha ask for his removal. It also would provide for reasonable stability.

Some other kinds of provisions also can be thought about to achieve the objective of keeping the government reasonably accountable as well as stable.

SELECT BIBLIOGRAPHY

Books

1. Dr. Balram Jakhar, *The People, the Parliament and the Administration*, New Delhi, Metropolitan Book Co., 1982
2. S.L. Shakhder, *Glimpses of the Working of Parliament*, New Delhi, Metropolitan Book Co., 1977.
3. Durga Das Basu, *Introduction to the Constitution of India*, New Delhi, Prentice Hall of India, 1989.
4. Subhash C. Kashyap, *Our Parliament: An Introduction to the Parliament of India*, New Delhi, National Book Trust, 1989.
5. Subhash C. Kashyap, *Parliament of India: Myths and realities*, New Delhi, National 1988.
6. Subhash C. Kashyap, *The Parliament and the Executive in India*, New Delhi, Lok Sabha Secretariat, 1987.
7. Subhash C. Kashyap, *Parliament as a Multi-functional Institution*, New Delhi, Lok Sabha Secretariat, 1987.

Articles

1. *Stability Versus Accountability*, by Shri Madhu Dandavate, *Indian Express*, 13 November, 1991.
2. *A Hung Parliament*, by Subhash C. Kashyap, *The Hindustan Times*, 10 January, 1991.
3. *Threat to Polity: Sad Erosion of Democratic Norms* by Surendranath Dwivedi, *The Statesman*, 6 July, 1991.
4. *Myths of Parliamentary Democracy*, by Raju Ramachandran, *Indian Express*, 9 August, 1991.

III. CONSTITUTION OF INDIA AND NATIONAL INTEGRATION

Introduction

In a study of national integration it is desirable to understand the terms 'nation', 'nationality' and 'nationalism'. Nation has been defined by Rupert Emerson as "a community of people who feel that they belong together in the double sense that they share deeply significant elements of a common heritage and that they have a common destiny for the future". It is the presence of certain objective factors like common descent, language, territory, customs, traditions, institutions, etc., which provide ground for the formation of nationality. Although, as Hans Kohn observes, "objective factors are of great importance for the formation of nationalities, the most essential element is a living and active corporate will." According to him nationalism is 'a state of mind, an act of consciousness.' It is the existence of "we" feeling among the people, which is the most important in the formation of nationality.

John Stuart Mill, in his perceptive essay on Representative Government, defines nationality as follows:

A portion of mankind may be said to constitute a nationality if they are united among themselves by common sympathies which do not exist between them and any others — which make them co-operate with each other more willingly than with other people, desire to be under the same government, and desire that it should be government by themselves or a portion of themselves exclusively. This feeling of nationality may have been generated by various causes. Sometimes it is the effect of identity of race and descent. Community of language and community of religion greatly contribute to it. Geographical limits are one of its causes. But the strongest of all is identity of political antecedents; the possession of a national history and consequent community of recollections; collective pride and humiliation, pleasure and regret, connected with the same incidents in the past.

National integration is a process of nation-state building, where emphasis is placed on the creation of composite national identity among the various socio-cultural segments living within a single territory. In this sense national integration is a dynamic process of "bringing together culturally and socially discrete

groups into a single territorial unit and the establishment of a national identity." The term is also often used in the related sense to refer to the problem of "establishing national central authority over subordinate political units or regions which may or may not coincide with distinct cultural or social groups." In another sense, integration means value integration, i.e. "minimum value consensus necessary to maintain a social order."

National integration means, and ought to mean, cohesion but not fusion, unity but not uniformity, of discrete segments of the people constituting a political community or state. National integration signifies a condition of *unity in diversity*, where unity refers to political and emotional unity and diversity to the socio-cultural plurality.

The concept of integration is not new to India. All down the ages, there has been an awareness of an India that transcends all differences of province, caste, religion, language and creed. There has always been a sense of belonging to, and identification with, this India and a sense of pride in and affection for it.

The rise of nationalism in India during the British rule has some unique features which should not be lost sight of.

People belonging to different castes and religions, speaking different languages, inhabiting a vast country with a large variety of flora and fauna and leading a sequestered life, being handicapped by inadequate means of transport and communications, joined together to fight for India's freedom. The Indian National Congress, founded in 1885 by its very name including the word 'National' became a medium for these national aspirations. During the British Rule, the Indian people had been brought together under a centralized administration. The common experience of subjugation under the State apparatus created a consciousness that their rights, social and political, were being thwarted by a foreign power for its gains and this led to the awakening of their national spirit in due course. People in this period launched their struggle not as Hindus, Muslims, Christians or Sikhs or as those belonging to some other community, but as Indians. They preached *Swadeshi*, spoke in their mother tongue and wore a common dress. Jallianwala Bagh is a vivid and memorable symbol of the ardent spirit of nationalism which had emerged during the freedom movement.

Non-cooperation also is another heart-warming example of the Hindu-Muslim-Sikh-Christian fraternization. Despite the growth of communal forces, the national struggle maintained its pitch until new India emerged and made its 'tryst with destiny' at the midnight hour of 15 August, 1947.

Constitution of India and National Integration

The framers of the Indian Constitution were very well aware not only of the historical, political and cultural background of the people of India but also of the vast diversities, societal tensions and crosscurrents in the Indian society. Therefore, after a deep study of the important Constitutions of the world, they produced a Constitution which contained adequate provisions for preservation of national unity and provided for a participatory parliamentary democracy in which hopes and aspirations of all sections of the society could be realised in a democratic manner. The Indian Constitution for the first time set the formal seal of identity as a single nation and brought all parts of the country under the pale of common loyalty.

The experts who have studied the growth of nationalism have pointed out that more than cultural fusion or homogeneity, a real potential factor for activating the process of national integration is to protect the interests of the people, and it is this protection of their interests which develops their loyalty to the country. People give loyalty to the institutions which protect them and political allegiance throughout history has been regarded as something given reciprocally in return for protection of interests. The founding fathers of our Constitution were aware of this. They, therefore, ensured in the Constitution, a set of Fundamental Rights and freedoms for all sections of the society and sought to establish a polity in which every citizen could enjoy liberty, equality and a life of dignity and play his role towards nation building.

The Preamble

As one opens the Constitution one is touched by the stirring words of the Preamble which reads:

"WE, THE PEOPLE OF INDIA, having solemnly resolved to constitute India into a SOVEREIGN ~ SOCIALIST SECULAR DEMOCRATIC REPUBLIC and to secure to all its citizens:

JUSTICE, social economic and political;

LIBERTY of thought, expression, belief faith and worship;

EQUALITY of status and of opportunity; and to promote among them all;

FRATERNITY assuring the dignity of the individual and the unity and integrity of the Nation;

IN OUR CONSTITUENT ASSEMBLY this twenty-sixth day of November, 1949, do HEREBY ADOPT, ENACT AND GIVE TO OURSELVES THIS CONSTITUTION."

The above words bring to mind the vast sea of humanity inhabiting this ancient land from Kashmir to Kanyakumari and from Kutch and Kamrup. The Preamble symbolises the unity of the Indian people and their Sovereign will. The picture of a 'democratic republic' which the Preamble envisages is democratic not only from the political but also from the social standpoint; in other words, it envisages not only a democratic form of government but also a democratic society, infused with the spirit of 'justice, liberty, equality and fraternity'. The promises of democracy, justice, liberty, equality, fraternity and national unity and integrity are sought to be realised through various provisions in the Constitution including those relating to Fundamental Rights and the Directive Principles.

Political Justice

The ideal of a democratic republic enshrined in the Preamble of the Constitution can be best explained with reference to the adoption of universal suffrage. In order to ensure the 'political' justice held out by the Preamble, it was essential that every person in the territory of India, irrespective of his proprietary, educational or other claims, should be allowed to participate in the political system, like any other person. Universal adult suffrage, without any qualification, was adopted with this object in view.

No less creditable for the framers of the Constitution is the abolition of communal representation, which in its trail had brought in the bloody and lamentable partition of India. In the Constitution there is no reservation of seats in Legislature except for the Scheduled Castes and Tribes and Anglo-Indians and that too only for a limited period.

The offering of equal opportunity to men and women, irrespective of their caste and creed, in the matter of public employment also implements the ideal of political justice (Article 16). The treatment of the minorities even apart from the constitutional safeguards, clearly brings out that the philosophy underlying the Constitution has not been overlooked by those in power. The fact that members of the minority communities are usually included in the Council of Ministers of the Union as well as the States, in the Supreme Court, and even in Diplomatic Missions, without any constitution reservation in that behalf, amply demonstrates that those who are working the Constitution have not missed its true spirit, namely, that every citizen must feel that this country is his own.

Economic Justice

That this democratic Republic stands for the good of all the people is embodied in the concept of a 'Welfare State', which inspires the Directive Principles of State Policy. The 'economic justice' assured by the Preamble can hardly be achieved if the democracy envisaged by the Constitution were confined to 'political democracy'. The banishment of poverty, not by expropriation to those who have, but by the multiplication of the national wealth and resources and an equitable distribution thereof amongst all who contribute towards its production, is the aim of the State, envisaged by the Directive Principles. Economic democracy will be installed to the extent that this goal is reached.

Article 39A provides that "the State shall secure that the operation of the legal system promotes justice, on a basis of equal opportunity, and shall, in particular, provide free legal aid, by suitable legislation or schemes or in any other way, to ensure that opportunities for securing justice are not denied to any citizen by reason of economic or other disabilities."

Liberty

Democracy, in any sense, cannot be established unless certain minimal rights, which are essential for a free and civilised existence, are assured to every member of the community. The Preamble mentions these essential individual rights as 'freedom of thought, expression, belief, faith and worship' and these are guaranteed against all the authorities of the State by Part III of the Constitution. While Article 19 gives all citizens, subject to certain restrictions the right to: (a) freedom of speech and expression; (b) assemble peaceably and without arms; (c) form association; or union; (d) move freely throughout the territory of India; (e) reside and settle in any part thereby; and (g) practice any profession or to carry on any occupation, trade or business, Article 21 lays down that no person shall be deprived of his life or personal liberty except according to procedure established by law. Article 20 and 22 (relating to protection in respect of conviction for offences and protection against arrest and detention in certain cases) also safeguard the liberty of the people. Article 25-28, guarantee freedom of religion.

Equality

Guaranteeing of certain rights to each individual would be meaningless unless all inequality is banished from the 'social' structure and each individual is assured of equality of status and opportunity for the

development of the best in him and the means for the enforcement of the rights guaranteed to him. This object is secured in the body of the Constitution, by making illegal all discriminations by the State between citizen and citizen, simply on the ground of religion, race, caste, sex or place of birth (Art. 15); by throwing open 'public places' to all citizens [Art. 15(2)]; by abolishing untouchability (Art. 17); by abolishing titles of honour (Art. 18); by offering equality of opportunity in matters relating to employment under the State (Art. 16); by guaranteeing equality before the law and equal protection of the laws, as justiciable rights. (Art. 14).

In addition to the above provisions to ensure civic equality, the Constitution seeks to achieve political equality by providing for universal adult franchise (Art. 326)

National Unity and Integrity

Unity amongst the inhabitants of India, is the first requisite for maintaining the independence of the country as well as to make the experiment of democracy successful. The ideal of unity has been buttressed by adding the words (and integrity of the Nation) in the Preamble, by the Constitution (42nd Amendment) Act, 1976. But neither the integration of the people nor the maintenance of a democratic political system could be ensured without infusing a spirit of brotherhood amongst the heterogeneous population, belonging to different races, religions and cultures.

Fraternity

The 'Fraternity' cherished by the framers of the Constitution is sought to be promoted *inter alia* by ensuring liberty and equality to all. In the words of Dr. B.R. Ambedkar, liberty, equality and fraternity are not to be treated as separate items. He said:

".....They form a union of trinity in the sense that to divorce one from the other is to defeat the very purpose of democracy. Liberty cannot be divorced from equality, equality cannot be divorced from liberty. Nor can liberty and equality be divorced from fraternity."

Secular State

The unity and fraternity of the people of India, professing numerous faiths, has also been sought to be achieved by enshrining the ideal of a 'Secular State', which means that the State protects all religions equally and does not itself uphold any religion as the State religion. The secular objective of the State has been specifically expressed by inserting

the word 'secular' in the Preamble by the Constitution (42nd Amendment) Act, 1976. There is no provision in the Constitution making any religion the 'established Church' as some other Constitutions do. On the other hand, the liberty of 'belief, faith and worship' promised in the Preamble is implemented by incorporating the fundamental rights of all citizens relating to 'freedom of religion' in Arts. 25-29, which guarantee to each individual freedom to profess, practise and propagate any religion and the freedom to manage religious affairs, assure strict impartiality on the part of the State and its institutions towards all religions.

While Article 29 provides a guarantee to any section of the society having a distinct language script or culture of its own the right to conserve them, article 30 gives to all minorities, whether based on religion or language, the right to establish and administer educational institutions of their choice.

Dignity of the Individual

A fraternity cannot, however, be established and maintained unless the dignity of each of its members is maintained. The Preamble, therefore, says that the State, in India, will assure the dignity of the individual. The Constitution seeks to achieve this object by guaranteeing equal fundamental rights to each individual, so that he can enforce his minimal rights, if invaded by anybody, in a court of law. Seeing that these justiciable rights may not be enough to maintain the dignity of an individual if he is not free from wants and misery, a number of Directives have been included in Part IV of the Constitution, exhorting the State so to shape its social and economic policies that, *inter alia*, "all citizens, men and women equally, have the right to an adequate means of livelihood" [(Art.39 (a)], "just and humane conditions of work (Art.42), and "a decent standard of life and full enjoyment of leisure and social and cultural opportunities" (Art.43).

Uniform Civil Code

Art, 44 lays down that the State shall endeavour to secure for the citizens a uniform civil code throughout the territory of India. The object of this article is to introduce a uniform personal law for the purpose of national consolidation.

Fundamental Duties

The philosophy contained in the Preamble has been further highlighted by emphasising that each individual shall not only have the fundamental rights to ensure his liberty of expression, faith and worship, equality of opportunity and the like, but also by providing for corresponding fundamental duties which *inter alia* are intended to promote unity and national integration.

The Fundamental Duties are ten in numbers, incorporated in Art, 51A (Part IV A), which has been inserted by the 42nd Amendment Act, 1976. Under this Article, it shall be the duty of every citizen of India: (i) to abide by the Constitution and respect the National Flag and the National Anthem; (ii) to cherish and follow the noble ideals which inspired our national struggle for freedom; (iii) to protect the sovereignty, unity and integrity of India; (iv) to defend the country; (v) to promote the spirit of common brotherhood amongst all the people of India; (vi) to preserve the rich heritage of our composite culture; (vii) to protect and improve the natural environment; (viii) to develop the scientific temper and spirit of inquiry; (ix) to safeguard public property; (x) to strive towards excellence in all spheres of individual and collective activity. Of course, there is no provision in the Constitution for direct enforcement of any of these Duties nor for any sanction to prevent their violation. But it may be expected that in determining the constitutionality of any law, if a Court finds that it seeks to give effect to any of these Duties, it may consider such law to be 'reasonable' in relation to Art. 14 or 19, and thus save such law from unconstitutionality. It would also serve as a warning to reckless citizens against anti-social activities such as burning the Constitution, destroying public property and the like.

Protection of Weaker Sections

Special provisions for affirmative action and positive discrimination have been made for the weaker sections of the society so that they may be integrated into the national main-stream. Article 15 (4) permits the State to make special provision for the advancement of any socially and educationally backward classes of citizens or for the Scheduled Castes or the Scheduled Tribes; and Article 16 (4) enables the State to make provisions for the reservation of posts in favour of any backward class of citizens which in the opinion of the State, is not adequately represented in the services under the State. Article 340 empowers the President to appoint a Commission to investigate the conditions of backward classes.

While the rights of free movement and residence throughout India and of Acquisition and disposition of property are guaranteed to every citizen, in the case of members of the Scheduled Castes and Tribes, special restriction may be imposed by the State as may be required for protection of their interests. Article 335 lays down that the claims of the members of the Scheduled Castes and the Scheduled Tribes shall be taken into consideration, consistent with the maintenance of efficiency of administration, in the making of appointments to services and posts in

connection with the affairs of the Union or of a State.

Article 338 [as amended by the Constitution [(Sixty-fifth Amendment) Act, 1990] provides for the National Commission for the Scheduled Castes and Scheduled Tribes with the duty *inter alia* to investigate and monitor all matters relating to the safeguards provided for persons belonging to Scheduled Castes and Scheduled Tribes; examine specific complaints with respect to the deprivation of their rights and safeguards; and present an annual report to the President upon the working of these safeguards and make recommendations as to the measures to be taken by the Union or any state for effective implementation of the safeguards. The Union and every State Government shall consult the Commission on all major policy matters affecting Scheduled Castes and Scheduled Tribes.

Special provisions are laid down in the Fifth and Sixth schedules of the Constitution (read with Article 244) for the administration of areas inhabited by Scheduled Tribes. Article 339 *inter alia* empowers the President to appoint a Commission to report on the administration of the scheduled areas and welfare of the Scheduled Tribes in the States and authorises the Union to give directions to a state about drawing up and execution of schemes specified in the direction to be essential for the welfare of Scheduled Tribes. The Proviso to Article 164 lays down that in the state of Bihar, Madhya Pradesh and Orissa, there shall be a Minister in charge of tribal welfare who may be in charge of the welfare of the Scheduled Castes and other backward classes. In practice such departments have been set up in other states also.

Article 330 and 332 provide for reservation of seats for Scheduled Castes and Tribes in the Legislatures for a limited period. The Constitution also provides for representation of the Anglo-Indian community in the Legislatures. The President may, if he is of the opinion that the Anglo-Indian community is not adequately represented in Lok Sabha, nominate not more than two Members of that Community to the House. The Governor has similar power in respect of the Legislative Assembly of the State but in his case the maximum quota is one member of the Community for the Legislative Assembly. The Constitution (Sixty-second Amendment) Act, 1989 has extended the reservation of seats for the Scheduled Castes and the Scheduled Tribes and aforesaid representation of Anglo-Indian Community in the Legislatures up to 20 December, 1999.

Besides several other provisions relating to the welfare of the weaker sections, there is a general directive in Article 46 that the State shall promote with special care the educational and economic

interests of the weaker sections of the people, and, in particular, of the Scheduled Castes and the Scheduled Tribes, and shall protect them from social injustice and all forms of exploitation.

Protection of the Languages and Cultural Identities of Minorities

The social and cultural fibre of the nation remains bound together by an underlying concept of a composite culture. The Constitution contains provisions for preservation of language and cultural identity of minorities and thereby strengthens the forces of national integration. Any section of the citizens of India having a distinct language, script or culture of its own has the fundamental right to conserve the same [Art. 29 (1)]. The Constitution contains special provision for declaration of any language spoken by a substantial portion of the population of State to be officially recognised throughout that State or any part thereof. It directs every State to provide adequate facilities for instruction in the mother-tongue at the primary stage of education to children belonging to linguistic minority groups and empowers the President to issue proper direction to any State in this behalf (Art. 350A). It also provides that a Special Officer for linguistic minorities shall be appointed by the President to investigate all matters relating to the safeguards provided for linguistic minorities under the Constitution and report to the President (Art. 350B).

All minorities, whether based on religion or language, have the fundamental right to establish and administer educational institutions of their choice [Art. 30 (1)]. While Article 29(1) enables the minority to maintain its language or script, Article 30 (1) enables them to run their own educational institution, so that the State cannot compel them to attend any other institutions, not to their liking. By a 1978 amendment, favourable treatment has been accorded to such minority educational institutions in the matter of compensation for compulsory acquisition of property by the State. While, by reason of the repeal of Art. 31, all persons have lost their constitutional right to compensation for acquisition of their property by the State, including educational institutions belonging to the majority community, educational institutions established by a minority community are put on a separate footing. Their property cannot be acquired by the State without payment of such compensation as would safeguard their right to exist, as is guaranteed by art. 30 (1A),

The State cannot, in granting aid to educational institutions, discriminate against any educational institution on the ground that it is under the management of a minority whether based on religion or language [Art. 30 (2)].

Languages

Languages offered a special problem to the makers of the Constitution simply because of the plurality of languages used by the vast population. It is somewhat bewildering to think that no less than 1,652 spoken languages, including 63 non-Indian languages, are current in this sub-Continent. The makers of the Constitution had, therefore, to select some of these languages as the recognised medium of official communication in order to save the country from a hopeless confusion. Fortunately for them, the number of people speaking each of these 1,652 languages was not anything like proportionate and some 14³ languages (included in the eighth Schedule of the Constitution) could easily be picked up as the major languages of India, used by 91 per cent of the total population of the country, and out of them, Hindi, including its kindred variants Urdu and Hindustani, could claim 46 per cent. Hindi was accordingly prescribed as the official language of the Union (subject to the continuance of English for the same purpose for a limited period).

Though one language was thus prescribed for the official purposes of the Union, the makers of the Constitution sought to afford relief to regional linguistic groups by allowing the respective State Legislatures (Art. 345) and the President (Art. 347) to recognise some language or languages other than Hindi as the languages for inter-state official transactions or any of them. These provisions thus recognise the right of the majority of the State Legislature or a substantial section of the population of State to have the language spoken by them to be recognised for official purposes within the State.

The Constitution also provides for the appointment of a commission as well as a Committee of Parliament to advise the President as to certain matters relating to the official language (Art. 344).⁴

The Constitution not only deals with the language to be used for communication between one State and another or between a State and the Union (Art. 346) but also contains provisions relating to language to be used in the Supreme Court and the High Courts and for acts, Bill etc. (Art. 348) and *inter alia* contains some special directives (Articles 350, 350 A, 350B) including the one for the development of the Hindi language (Art. 351).

Unity and National Integration through Federal System

The founding fathers of our Constitution were very

anxious to protect and promote the unity and integrity of the country. They, therefore, weaved into the federal system several special features which act as a unifying force. This would be evident *inter alia*, from the following:

- (i) The Constitution of India lays down the Constitution for the States as well. Except in a few specified matters affecting the federal structure, the States need not be consulted in the matter of amendment of the bulk of the Constitution, which may be effected by a Bill in the Union Parliament, Passed by a special majority.
- (ii) Though there is a division of powers between the Union and the States, there is provision in our Constitution for the exercise of control by the Union both over the administration and legislation of the States. Legislation by a State shall be subject to disallowance by the President, when reserved by the Governor for his consideration (Art. 201). Again, the Governor of a State shall be appointed by the President of the Union and shall hold office 'during the pleasure' of the President (Arts. 155-156)
- (iii) Art. (1) of our Constitution says—"India, that is Bharat, shall be a union of States". According to Dr. Ambedkar the Drafting Committee used the term "Union" because of certain advantages. These advantages, he explained in the Constituent Assembly were to indicate two things, viz. (a) that the Indian federation is not the result of an agreement by the units, and (b) that the component units have no freedom to secede from it. It is not possible for the States of the Union of India, to exercise any right of secession. It should be noted in this context that by the 16th Amendment of the Constitution in 1963, it has been made clear that even advocacy of secession will not have the protection of the freedom of expression.
- (iv) It is possible for the Union Parliament to reorganise the States or to alter their boundaries, by a simple majority in the ordinary process of legislation. Art. 4 (2). The Constitution does not require that the consent of the Legislature of the States is necessary for enabling Parliament to make such laws; only the President has to 'ascertain' the views of the Legislature of the

³This number has come up to 15, by the addition of "Sindhi", by the Constitution (21st Amendment) Act, 1967.

⁴The first Official Language Commission was accordingly, appointed in 1955 and it submitted its Report in 1956, which was presented to Parliament in 1957 and examined by a joint Parliamentary Committee. In pursuance of the recommendations of the Parliamentary Committee the President issued an Order on April 27, 1960, containing directions by way of implementing the recommendations.

affected States to recommend a Bill for this purpose to Parliament. Even this obligation is not mandatory insofar as the President is competent to fix a time-limit within which a State must express its views, if at all (Proviso to Art. 3 as amended). In the Indian federation, thus, the States are not "indestructible" units as in the U.S.A.

- (v) Not only does the Constitution offer no guarantee to the States against affecting their territorial integrity without their consent,—there is no theory of 'equality of State rights' underlying the federal scheme in our Constitution. There is no equality of representation of the States in the Council of States.
- (vi) The Indian Constitution does not introduce any double citizenship but only one citizenship, viz., the citizenship of India (Art. 5).
- (vii) The public services are also designed to promote unity and national integration. In U.S.A., the federal and State Governments have their own officials to administer their respective laws and functions. But there is no such division amongst the public officials in India. The majority of the public servants are employed by the States, but they administer both the Union and State laws as are applicable to their respective States by which they are employed. Our Constitution provides for the creation of All-India Services, but they are to be common to the Union and the States (Art. 312). Members of the Indian Administrative Service, appointed by the Union, may be employed either under some Union Department or under a State Government, and their services are transferable, and even when they are employed under a union Department, they have to administer both the Union and State laws as are applicable to the matter in question.
- (viii) In India, the same system of Courts, headed by the Supreme Court, administers both the Union and State laws as are applicable to the cases coming up for adjudication.
- (ix) The machinery for election, accounts and audit is also similarly integrated.
- (x) The Constitution of India empowers the Union to entrust its executive functions to a State, by its consent (Art. 258) and a State to entrust its executive functions to the Union, similarly (Art. 258A). No question of 'surrender of sovereignty' by one

Government to the other stands in the way of this smooth co-operative arrangement.

- (xi) While the federal system is prescribed for normal times, the Indian Constitution enables the federal government to acquire the strength of a unitary system in emergencies. While in normal times the Union Executive is entitled to give directions to the State Governments in respect of specified matters, when a Proclamation of Emergency is made, the power to give directions extends to all matters and the legislative power of the Union extends to State subjects (Arts. 353, 354, 357).
- (xii) Even in its normal working, the federal system is given the strength of a unitary system:
 - (a) By endowing the Union with as much exclusive powers of legislation as has been found necessary in other countries to meet the ever-growing national exigencies, and, over and above that, by enabling the Union Legislature to take up some subject of State competence, if required 'in the national interest' Thus, even apart from emergencies, the Union Parliament may assume legislative power (though temporarily) over any subject included in the State List, if the Council of States resolves, by a two-thirds vote, that such legislation is necessary in the 'national interest' (Art. 249).
 - (b) By empowering the Union Government to issue directions upon the State Governments to ensure due compliance with the legislative and administrative action of the Union (Arts. 256-257), and to supersede a State Government which refuses to comply with such directions (Art. 365).
 - (c) By empowering the President to withdraw to the union the executive and legislative powers of a State under the Constitution if he is, at any time, satisfied that the administration of the State cannot be carried on in the normal manner in accordance with the provisions of Constitution, owing to political or other reasons (Art. 356).
- (xiii) Not only are the provisions relating to the Units elaborately given, the relations between the Union and the Units and the Units *inter se*, whether legislative or administrative, are also exhaustively codified, so as to eliminate conflicts as far as possible. The lessons drawn from the political history of India which induced the framers of the

Constitution to give it a unitary bias, also prompted them to make detailed provisions "regarding the distribution of powers and functions between the Union and the States in all aspects of their administrative and other activities." and also as regards inter-State relations, co-ordination and adjudication of disputes amongst the States.

Article 262 provides that 'Parliament may by law provide for the adjudication of any dispute or complaint with respect to the use, distribution or control of the waters of, or in, any inter-State river or river valley. Further Article 263 provides for the establishment of an Inter-State Council: to inquire into and advise upon disputes arising between states; to investigate and discuss subjects in which some or all of the States, or the Union and one or more of the State, have a common interest; and, to make recommendations upon any such subject and, in particular, recommendations for the better co-ordination of policy and action with respect to that subject. These provisions are the remedial institutional and constitutional measures to ease out problems of Centre-State relations.

PARLIAMENT AND NATIONAL INTEGRATION

The Parliament of India representing as it does all constitutionally organised shades of public opinion at the national level, occupies a pre-eminent and pivotal position in the country's constitutional set-up. It has also over the years, carved out for itself a unique place in the esteem and affection of the people as the forum through which they articulate and realise their aspirations and ventilate their grievances and seek solutions to their problems. Parliament is the supreme representative body of the people.

The emergence of Parliament as a potent conflict resolution mechanism and a leading mediating force in national politics is now an accepted fact of Indian political life. Parliamentary democracy is considered to be a better and more civilized system of Government inasmuch as under it debates and discussions on the legislative floor take the place of

physical strife on the streets or on the battlefields. Debates and discussions bring out into the open the underlying tensions and resentments in society. Parliament becomes the legitimate arena for power struggle, for crystallization of political activity or for acting out the conflicting roles and interests with the parliamentary rules and procedures facilitating eventual reconciliation. Instead of fighting to annihilate each other, the parties tend to agree to disagree and to accommodate or tolerate each other. It is on the legislative floor that some very delicate problems get resolved. The contending forces struggle to have their way and finally get reconciled. In performing this conflict-resolution role, the parliamentary institution acts as a great national integrator and mediator in change. This conflict resolution and integrational role of Parliament is specially significant in the context of our highly pluralistic society.

CONCLUSION

National integration is an on-going process of harmonizing socio-cultural and other diversities and putting them in harmony with the needs of national unity. It is also a process of adjusting primordial loyalties in such a way as not to pose threat to national unity and solidarity. Loyalty to broader territorial nation-state should transcend all other forms of loyalties arising from group consciousness.

National unity does not mean national uniformity. The Indian Constitution recognises the existence of religions and socio-cultural diversities in the country. It provides through its various provisions the basis of national cohesion and serves as an instrument for bringing about peaceful socio-economic and political changes with a view to effectively balancing conflicting interests in Indian society and promoting national integration. It provides for a semiunitary and semi-federal polity which is designed to achieve the objective of national unity and integrity. For the last more than forty years, the Constitution has helped the Indian nation to remain integrated; to make big strides in developments in all fields, to protect its sovereignty and territory and to play an appropriate role in world affairs.

SOURCES CONSULTED

1. *Constitution of India.*
2. D.D. Basu : *Introduction to the Constitution of India*, New Delhi, Prentice Hall, 1987.
3. D.D. Basu: *Commentary on the Constitution of India*, (Vols. A and B), Calcutta, S.C. Sarkar & Sons, 1982.
4. Syed Muzaffar Husain Burney : "*Indian Constitution and National Integration*" (*the Journal of Parliamentary Information* Vol. XXXVII, No. 1, March 1991, pp. 12—15)
5. K.S. Hegde : *The constitution and the People* (*The Journal of Parliamentary Information*, Vol. XXV, No: 3, July-September, 1979 pp. 332—39).
6. Dr. P.B. Gajendragadkar : *The Unity of India-Its Basic Postulates in Rafiq Zakaria (Ed.): Indian Unity—A Symposium on its different Facets and Aspects*, Bombay, Popular Prakashan, 1969.
7. Lok Sabha Secretariat : *Monograph on Parliament as a Multifunctional Institution*, 1987.
8. Lok Sabha Secretariat: *Constitution Amendment in India* (Supplement), 1991
9. Rupert Emerson : *From Empire to Nation : The Rise to Self Assertion of Asian and African Peoples*, Cambridge, Harward University Press, 1960.
10. Hans Kohn : *The Idea of Nationalism : A study in its Origins and Background*, New York, Macmillan, 1956.
11. Hans Kohn: *Nationalism : Its Meaning and History*, 1965.
12. *Report of the Committee on Emotional Integration*, Govt. of India, Ministry of Education, 1962.
13. Myron Weiner : "Political Integration and Political Development" *In* Harvery G. Kebschull, (Ed.) *Politics in Transitional Societies : The challenge of change in Asia, Africa and Latin America*, Newyork Appeton-Centary-Crafts Educational Division, 1968, pp. 263—272)

IV. CONSTITUTION OF INDIA IN PRECEPT AND PRACTICE

Introduction

The Constitution of India is the fundamental law of the land of the basis of which all other laws in the country are made and enforced. It represents the quintessence of the ideals and value we have held as a people down the ages, and the hopes, faiths and beliefs that we have come to acquire through the long years of our freedom struggle. It is an article of faith of the people and symbol of the nation's achievements. It embodies the collective wisdom of the founding fathers and represents the will of the people of India. It defines the political philosophy of our people, and their socio-economic ideals, urges, hopes and aspirations, as observed by Pandit Jawaharlal Nehru:

“The Constitution is after all, some kind of legal body given to the ways of Governments and the life of a people. A Constitution if it is out of touch with the people's life, aims and aspirations, becomes rather empty, if it falls behind those aims, it drags the people down. It should be something ahead to keep people's eyes and minds up to a certain high mark.”¹

A period of more than four decades has lapsed since the adoption of the Indian Constitution. It is noteworthy that with the giving of the Constitution upto ourselves, the founding father had visualised, among other things, a charter of basic liberties, parliamentary democratic institutions, a federal structure and a degree of judicial review. Over the years, we have come to appreciate the wisdom and foresight of the Constitution-makers, for indeed, they did provide a durable and democratic framework of government. In no small way, its success is due to the mode and spirit of its operation. For, after all, a Constitution can only establish institutions on paper; making them work is the task and responsibility of the people

As rightly observed by Dr. B.R. Ambedkar:

“However good a Constitution may be, it is sure to turn out bad because those who are called to work it

happen to be a bad lot. However bad a Constitution may be, it may turn out to be good if those who are called to work it happen to be good lot. The working of the Constitution does not depend wholly on the nature of the Constitution. The Constitution can provide only the organs of the State such as the Legislature, the Executive and the Judiciary. The factors on which the working of these organs of the State depend are the people and the political parties. . . .²

The Constitution as a Policy Instrument

Generally speaking, the basic policy of the Indian body-politic is contained in four sections of the Constitution, namely, the Preamble, the Fundamental Rights, the Directive Principles of State Policy and the Fundamental Duties.

The Preamble

Every Constitution begins with a preamble which reveals the minds of its authors. It is considered to be an integral part of the Constitution which states the aims and objectives of the Constitution in a nutshell.

Our Constitution has an exceptionally lucid and expressive Preamble which the founding fathers had conveyed in the most eloquent manner. It may appear that there is very little that is new or novel in what is said in the preamble and that is not to be found in one or more constitutional preambles of the world, yet the manner in which the whole thing is conceived and woven together is, indeed, unique. The attempts on the part of the framers of our Constitution was to epitomise and reflect in the preamble the entire philosophy underlying the Constitution. The preamble very clearly conveys the broad framework of ideals which are deeply engrained in our ancient heritage and are a part of Indian ethos for which the Constitution stands and the fundamentals on which it has been founded. In

¹C.A.D., Vol. VII, p. 318

²C.A.D. Vol. XI, p. 975

this connection, rising perhaps to poetic heights, one of the members of the Constituent Assembly said thus:

'The Preamble is the most precious part of the Constitution. It is a jewel set in the Constitution. It is a super prose-poem, nay, it is perfection in itself.'³

The opening words of the Constitution "We, the people of India. . . in our Constituent Assembly. . . adopt, enact and give to ourselves this Constitution" declare in unequivocal terms the ultimate sovereignty and authority of the people of India from whose will the Constitution emerges. These words emphasize that the Constitution has been ordained by the people of India through their representatives assembled in the sovereign Constituent Assembly.

The Preamble to the Constitution as adopted on 26 November 1949, remained unchanged till 1976, when the 42nd Amendment to the Constitution included the words 'Socialist', 'Secular' and 'Integrity' also in the Preamble. Justifying this 'amendment' and speaking on the motion for consideration of the Bill on the subject in the Lok Sabha on 25 October 1976, the then Minister of Law, Justice and Company Affairs (Shri H.R. Gokhale) drew the attention of the House to the Congress Resolution passed way back in 1931 at Karachi and Jawaharlal Nehru's remarks in the Constituent Assembly. He *inter alia*, said that in 1931, that Karachi Congress had passed a resolution indicating that although their immediate objective was to attain political freedom, their further objective was to bring about a socio-economic revolution in the country after the achievement of that freedom.

Objectives of Preamble: How far achieved

The objectives of the preamble have been translated into the text of the Constitution. But the question arises: Have we achieved these objectives in practical sense? We are still looking forward to a democratic society as envisaged in the preamble—a social and economic democracy. Fraternity cherished by the framers of the Constitution has failed to generate the spirit of oneness amongst all sections of people. It is indeed ironic that even after 40 years of

the adoption of the Constitution, the country still suffers from ills which were aimed at to be removed through the means of polity envisaged in the Constitution.

Fundamental Rights

Basic human freedom, for which men have fought and died in the struggle for liberty, are the hall-mark of a democratic society. The success or failure of a democracy depends largely on the extent to which these freedoms are enjoyed by the people in general. Our Shastras⁴ have very clearly stated:

"Even though very learned, those who have not learnt to conduct themselves in harmony with the world (of the great) are unwise men indeed."(140)

Therefore, every democratic society enshrines the inherent and inalienable human rights in their Constitutions and guarantees their inviolability by legislative and executive authorities. The framers of the Constitution also gave due recognition to these rights in the form of fundamental rights.

The Indian Constitution not merely enumerates Fundamental Rights but also guarantees them by making the right to constitutional remedies itself a Fundamental Right. In fact, it is the remedy that makes a right real; if there is no remedy there is no right at all.

Right to Equality

The right to equality is guaranteed by articles 14, 15, 16, 17 and 18 of the Constitution. Article 14 embodies the principle rule of equality which prohibits the State from denying all persons, whether citizens or foreigners, equality before the law or the equal protection of the laws. Every person, including, the one holding the highest office down to the humblest peasant, is under the same responsibility for every act done by him without lawful justification. The Constitution, however, provides for certain exceptions to the above rule to persons such as the President, Governors, Ministers, Diplomats and

³ Pandit Thakur Das Bhargava, C.A.D. Vol. X, p. 682

⁴ *First All India Tirukkural Research Seminar Papers*, Ed. Dr. N. Sanjeevi, p. 62, University of Madras (1973).

Judges, who enjoy certain special privileges attached to their offices.

Article 14 often comes under judicial scrutiny⁵ and almost all judicial interpretations mainly centre around the question of reasonableness of the basis of classification permissible under the Article. The courts in India have upheld the view that Article 14 does not forbid reasonable classification but the classification should not be arbitrary and should be based on a rational relation to the objects sought to be achieved. Reference may be made here to a decision of the Supreme Court in *State (Delhi Administration) V. V.C. Shukla*⁶ wherein it was observed:

“ It is well settled that in applying article 14 mathematical precision or nicety or perfect equanimity are not required. What article 14 prohibits is hostile discrimination and not reasonable classification for any person invoking article 14 must show that there has been discrimination against a person who is similarly situated or equally circumstances.”

Right to Freedom

Personal liberty is the most fundamental of the Fundamental Rights. Articles 19 to 22, which deal with the various aspects of this right, constitute a charter of personal liberty. Article 19 provides what were popularly known as “seven freedoms.”⁷ None of these freedoms is absolute or uncontrolled, for each is liable to be curtailed by reasonable restrictions provided in clauses (2) to (6) of article 19 in the interest of the community. This is what is meant by saying that the Indian Constitution attempts to strike a balance between individual liberty and social control.⁸

Article 21 guarantees that no person, citizen or non-citizen, shall be deprived of his life or personal liberty except according to the

procedure established by law. It may be recalled that the Constitution-makers did not favour the adoption of the ‘due process’ clause and instead adopted the clause ‘procedure established by law’. It means that article 21, in positive terms, lays down that personal liberty may be deprived by a procedure established by law. In early cases⁹, the expression ‘procedure established by law’ was given a very narrow meaning. If there was a law which provided some sort of procedure, it was enough to deprive a person of his life or personal liberty.

A definite change of judicial attitude was made in the case of *Maneka Gandhi V. Union of India*.¹⁰ In fact this case marks a Watershed in the history of the development of constitutional law and has opened up vast vistas. The Supreme Court veered round to the view that article 21 afforded protection not only against legislation, but any law which deprived a person of his life or personal liberty would be invalid unless it prescribed a procedure for such, which was reasonable, just and fair. The concept of reasonableness runs throughout the entire fabric of the Constitution and if the procedure established by law is not reasonable, fair and just, it would be violative of article 21.

In *Francis Coralie V. Administration Union Territory of India*,¹¹ Justice Bhagwati had observed that article 21 was wide enough to cover the entire process by which deprivation was effected and that would include not only the adjective but also the substantive part of the law. In other words, every fact of law which deprives a person of his life or personal liberty will have to stand the test of reasonableness, fairness and justice, otherwise it will violate article 21.

The Supreme Court reiterated in *Randhwa Mukti Morcha V. Union of India*¹² that it is the fundamental right of every one in this country, assured under the interpretation given to article 21, to live with dignity free from exploitation.

⁵*Chiranjit Lal V. Union of India*, AIR 1951 SC 41. See also, *State of West Bengal V. Anwar Ali*, AIR 1953 SC 215 *Amerunisa Begum and others V. Mahboob Begum*, AIR 1953 SC 91

⁶AIR 1980 SC. 1382

⁷Now there are only six freedoms under article 19 since right to property has been omitted from article 19.

⁸*A.K. Gopalan V. State of Madras*, AIR 1950 SC. 27

⁹*Ibid*, AIR 1950 SC 27 see also *Jagmohan Singh V. State of U.P.* AIR 1967 SC 1630

¹⁰AIR 1973 SC 1974.

¹¹AIR 1981 SC 746

¹²AIR 1984 SC 802

Rights against Exploitation

Adequate provisions (articles 23 and 24) were incorporated in the Constitution for eradication of traffic in human beings, *Begar* and other similar forms of exploitation which prevailed in several parts of the country at the time the Constitution was being drafted. Since then, several statutes have been enacted to eradicate the evil practice of women labour child and bonded labour. Mainly, these statutes are: the Employment of Children Act, 1938; various provisions in relation to child labour in the Factories Act, 1948; the Mines Act, 1952; the Suppression of Immoral Traffic in Women and Girls Act, 1956 and the Bonded Labour System (Abolition) Act, 1976. It may also be stated that the judiciary too has also upheld the validity of the steps towards abolition of forced labour and removal of economic and physical exploitation of the weaker sections of the people by pronouncing far-reaching decisions. Reference here may be made to cases of *Peoples Union for Democratic Rights V. Union of India*¹³ and *Bandhua Mukti Morcha V. Union of India*.¹⁴

Right to freedom of Religion

The freedoms guaranteed in articles 25 to 28 give expression to the liberal goal embodied in the Preamble, namely, "liberty of thought, expression, belief, faith and worship." In view of the important role which religion plays in the life of the common man in India, these freedoms are conceived in most generous terms. While recognising the right of every person to freedom of religion, certain limitations have been imposed on this right in the Constitution itself.

Since religious practices stretch over a wide field, the courts had to decide in several cases, what matters fall within the scope of religion and what do not. Judicial decisions have laid down the scope and extent of rights conferred by articles 25 and 26. These articles came up for judicial interpretation for the first time in *Commissioner, Hindu Religious Endowments V. Sri Lakshmindra Tirtha Swamiar* where the Supreme Court held that freedom of

religion was not confined to religious beliefs only but it extended to religious practices as well. Justice Mukherjea observed in this case:

"What constitutes an essential part of religion is primarily to be ascertained with reference to the doctrine of that religion itself. . . . religious denomination or organisation enjoys complete autonomy in the matter of deciding as to what rites and ceremonies are essential according to the tenets of the religion they hold, and no outside authority has any jurisdiction to interfere with their decision in such matters."¹⁵

While safeguarding the right to practice and propagate religion, the Court¹⁶ have also taken care to see that this right is not abused to insult the religion of others or to perpetrate religious abuses.

Cultural & Educational Rights

India is a multi-lingual and multi-religious State. It consists of people of diverse creeds and ethnic origins. Besides the 15 recognised languages, there are more than 800 spoken dialects in the country. Articles 29 and 30 were incorporated in the Constitution for the protection of the cultural and educational interests of minorities based on religion or language. Such recognition is unparalleled in the Constitutions of other countries.

The right of minorities to freedom of education has been adequately safeguarded by the courts. But since it is not an absolute right, the Supreme Court has held that the right to administer cannot obviously include the right to mal-administration.¹⁷ Again, as a condition for granting aid or recognition to an institution, the State may impose reasonable regulations, but any such restriction should not annihilate this right.¹⁸

Right to Constitutional Remedies

The incorporation of article 32 in the Fundamental Rights indicates the significance attached to the right to constitutional remedies by the framers. As Dr. B.R. Ambedkar observed, 'rights without remedies would remain "glittering generalities", without any binding effect on the state'.¹⁹ The Judiciary has thus been assigned a very special role as "the protector and guarantor" of Fundamental Rights.

¹³ AIR 1982 SC 1473

¹⁴ AIR 1984 SC 802

¹⁵ AIR 1954 SC 282

¹⁶ *Ranji Lal Modi V. State of U.P.* AIR 1957 SC 620 *Saifuddin Saheb V. State of Bombay* AIR 1962 SC 853.

¹⁷ *In re on the Kerala Education Bill, 1957*, AIR 1958 SC 956

¹⁸ *Ramani Kanta V. Gauhati University* AIR 1951 p. 168

¹⁹ C.A.D. Vol. VII, p. 953

The Supreme Court of India had the opportunity to deal with its power to enforce Fundamental Rights of an accused person to speedy trial and to give necessary directions to the States. In *Husainara Khatoon V. Home Secretary, State of Bihar*²⁰ Justice P.N. Bhagwati observed as under:

“The State cannot avoid its constitutional obligation to provide speedy trial to the accused by pleading financial or administrative inability. . . It is the constitutional obligation of the Court as the guardian of the fundamental rights of the people, as a sentonel on the *Qui vive* to enforce the fundamental rights of the accused by speedy trial.”

Reference may also be made to Supreme Court decision in the *Bhagalpur Blinding Case*²¹ where a writ was filed under article 32 by some under-trials for the enforcement of their fundamental rights under article 21 on the allegation that they were blinded by the police officer either at the time of arrest or later in police custody.

Earlier, the view taken by the Supreme Court was that a writ under article 32 could only be filed by a person whose Fundamental Rights had been violated. However, with the development of constitutional law, a new device called “public interest litigation” has evolved under which the representative proceedings are now permitted by the courts.

Directive Principles of State Policy

The chapter on Directive Principles of State Policy under our Constitution is the mirror of the Indian polity through which one can make an estimate of expectation of the people of India. This is the stem on which the whole edifice of Constitution and Government stands.

In the context of the society as it obtains today in most of the developing countries, only a truly democratic government based on the common consent of the people can ensure bumper production, proper maintenance and equitable distribution of wealth with a view to eliminate gnawing hunger and glaring disparity in wealth. This enlightened idea is apparently elucidated in the undernoted Valluvar's* couplet:

“King wealth creates, protects, defends and for his subjects welfare spends.”

The State is no longer a mere tax collector or “a grand police man under the *laissez faire school*”, but is more of a welfare State.

The Directive Principles, set forth in articles 38 to 51, enshrine the ideals of economic and social democracy. They are the humanitarian social precepts which aim at realising Constitution's goal of a welfare State. They aim at making the Indian masses free in the positive sense, free from the passivity engendered by centuries of coercion by society, and by nature, free from the abject physical conditions that had prevented them from fulfilling their best selves.²²

Actual working of the Directive Principles

The real value of directive principles depends not merely on what is set forth in the Constitution but how they have been actually working in practice. Space in this paper would not permit to make a complete and detailed survey of the concrete measures taken by the Government to implement such a large number of Directive Principles since the commencement of the Constitution, but a brief reference is made to some of the prominent achievements in order to indicate that the Directive Principles have not been regarded by the State as mere pious platitudes, as was supposed by some critics.

The greatest progress has been made in connection with the Directive [Article 39(b)] which provides that the State should *secure* that the ownership and control of the material resources of the community are so distributed as to best subserve the common good. In the past, an important source of wealth was appropriated by hereditary proprietors, zamindars, jagirdars, etc. and the actual tillers were exploited by the intermediaries. The Government abolished these intermediaries in order to bring the actual cultivators into direct relationship with the State. Besides legislations have been enacted to prevent the concentration of land in the possession of individual tillers of the soil, by fixing a ceiling. This has been facilitated by amending the Constitution to shield such legislations from being challenged in the courts.

There has been a substantial increase in the vesting of both ownership and control of the material resources of the community in the State. Certain

²⁰ AIR 1979 SC 1369

²¹ AIR 1981 SC 1068

*Granville Austin, *The Indian Constitution: Corner stone of a Nation*, p. 51.

²² *Voice of Valluvar* by Rao Sahib SRV Arasu, p.47 “Thayakam”, Madras (1972)

major industries have been nationalised and State Corporations set up for the purpose of abolishing private monopolies, with a view to narrowing the gap between the rich and the poor.

Although the State has not implemented completely the Directives in the interests of the working classes, still some significant steps have been taken in this direction. For instance, the Employees' State Insurance Act and the Workmen's Compensation Act 1923 contain provisions for assistance to workers during old age, disablement, sickness, accident, disease and undeserved want. The Payment of Wages Act 1936 and the minimum wages Act of 1948 have also been passed to improve the lot of workers of all categories. But as a result of lack of definite guiding principles, there seems to be an utter chaotic situation in the prevailing minimum wages in the country. A system of minimum wages has to be evolved which will ensure protection of maximum number of workers. Equal wages for equal work are being paid to both men and women in almost every area of activity. Great emphasis is now being laid on the creation of employment opportunities. Steps are being taken to establish a scheme of unemployment insurance.

The ambitious Community Development Programme which is in operation almost all over the country has helped to transform the rural economy, particularly the reorganisation of agriculture and animal husbandry on scientific lines.

Education is the most important component for democracy. Without the basic education and awareness of 'demos', democracy is not possible. The directive to provide free and compulsory education for all children until the age of fourteen years is a compelling one. Legislation for free and compulsory education for children has been enacted in most of the States. But India will perhaps require another decade to make this principle a practical proposition.

Promotion of cottage industries is another Directive and the Central Government has established several Boards to help the State Governments in such matters as marketing and finance. Some of these are: the All-India Khadi and Village Industries Board, the All-India Handicrafts Board, the All-India Handloom Board, the Small Scale Industries Board and the Silk Board.

The State has not yet been able to secure for its citizens a uniform civil code throughout the territory

of India, as required by article 44. The Constitution of India enjoins on the State a duty to provide a uniform civil code in respect of marriage, maintenance, succession, adoption etc. common to all the citizens. Parliament has not implemented this directive *in toto* because the enactment of such a code would not be easy in a country where every religion has its own personal laws. However, as a first step towards this goal, Parliament has codified the law relating to Hindus in respect of marriage, divorce, succession etc. The decision of the Supreme Court in *Mohammad Ahmed Khan V. Shah Bano Begum*²³ that the Muslim husband is liable to provide maintenance to his divorced wife after *iddat* under section 125 of the Code of Criminal Procedure, 1973, and its plea for a Uniform Civil Code raised a controversy throughout the country.

The Muslim Women (Protection of Rights on Divorce) Act, 1986, was passed by the Parliament to prevent interference with the personal laws of Muslims by excluding the application of Section 125 to them and providing some alternative safeguards to Muslim divorced women.

The directive to give free legal aid has gained momentum only in recent years. The perception of the need for ensuring social justice, equality, personal liberty and rule of law has strengthened the case for making free legal aid available to all the poor and the needy.

A series of impressive measures have been taken to promote, with social care, the educational and economic interests of the weaker sections of the people, particularly the Scheduled Castes and the Scheduled Tribes, the latest being the setting up of a Commission for Scheduled Castes and Scheduled Tribes with statutory powers.

Finally, the Government of India has been following a foreign policy in accord with the Directive in Article 51 of the Constitution. India has steered clear of power blocs, steadfast in her adherence to the policy of non-alignment or dynamic neutrality. Sincere efforts have all along been made by India towards the promotion of international peace, security, friendship and collaboration. India's contribution in this field is widely acknowledged and has earned the country high respect in the comity of nations. Recent developments in the world have once again underlined the relevance and importance of India's policy that respect for each other's view

²³AIR 1985 SC 945.

point and systems—peaceful co-existence is the only way for the survival of humanity.

(IV) Fundamental Duties

Originally our Constitution did not speak about duties, but the 42nd Amendment to the Constitution inserted—Part IV A in our Constitution, entitled “Fundamental Duties”. These are the duties of the citizens to the society as a whole.

The duty concept as such is not new to us. We had recognised it all along. We have known it from the dawn of our civilization. For example, the *Dharamshastra* deals with the duties of the individuals in all walks of life, of king, ministers, officials and judges. It held certain duties to be eternal.

For instance, Tirukkural* states in Chapter 103 on citizenship:

“There is nothing that so dignifies the individual as being ever ready to render service to community.”

At another place, it has been mentioned that—

“A community prospers if its members are active, industrious and possess sound knowledge.”

Similarly, the following moral maxims from Nitidvisastika** have a direct bearing on some of our Fundamental Duties:

परपरिवादः परिषदि

न कथंचन पण्डितेन कर्तव्यः ।

सत्यमपि तत्र वाच्यं

यदुक्तमसुखाबहं भवति ॥४॥

(A wise man should not at all speak ill of others in an assembly. Even truth should not be uttered, which if expressed, becomes unpalatable.)

आलस्यं त्यक्तव्यं

लौलस्यं लोभः परपरवादश्च ।

अस्थानेषु च कोप—

स्तथात्तिमानश्च पुरुषेण ॥७६॥

(One should give up laziness, fickleness, covetousness, speaking ill of others, misplaced anger and excessive pride.)

Throughout the freedom struggle, the duty concept had always been in the thoughts of our leaders. When freedom appeared to be at our door-steps, our leaders started thinking in terms of having a chapter on Fundamental Duties in our Constitution. In the brochure ‘Gandhian Constitution for Free India’

there was a full chapter on Fundamental Rights and Duties. Its impressive foreword was written by Mahatmaji himself. But ultimately, what came out of it in our Constitution was the chapter on “Directive Principles of State Policy.”

In order that the individual may not overlook his duties to the community in exercise of his Fundamental Rights or commit wanton destruction of public property or the like, the Fundamental Duties were incorporated in the Constitution in accordance with the recommendations of the Swaran Singh Committee. According to Smt. Gandhi, the then Prime Minister, “The moral value of these duties would be not to smother rights but to establish a democratic balance by making the people conscious of their duties equally as they are conscious of their rights.”²⁴

Duties and Rights are correlative terms. They are in fact complementary to each other. Right cannot exist without duty and duty cannot exist without right. They are two sides of one coin. In a social sense, the rights of one become the duties of other and *vice-versa*. In our country, people had all along been demanding too much of rights without being prepared to fulfil constitutional obligation and duties. Mere insistence of rights is likely to violate the constitutional process. The new chapter on duties was inserted to act as a political counterpoise to the Fundamental Rights already enshrined in the Constitution. It is not sufficiently realized in our country that if individual’s and groups have rights and claims, so does society and the nation. Fundamental Rights alongwith Duties are considered to reconcile the demands of the individual to that of the collectivity.

Parliamentary V. Presidential Form of Government

The Form of Government introduced by the Constitution both at the Union and the State is the Parliamentary one of the British type. The decision to adopt a Parliamentary or Cabinet form of Government was preceded by a long and erudite discussion in the Constituent Assembly over the relative merits and demerits of Parliamentary *versus* Presidential Form of Government for India. What finally clinched the issue in favour of the former was the fact that under the British rule, Indians were

*Kural: The Great Book of Tiru-valluvar by C. Rajagopalachari.

**Nitidvisastika of Sundarapandya, the Adyar Library and Research Centre, Madras (1984).

²⁴Lok Sabha Debates, 28 October, 1976.

being prepared for such a form of government. As K.M. Munshi explained in the Constituent Assembly:

“We must not forget a very important fact that during the last hundred years, Indian public life has largely drawn upon the traditions of British Constitutional Law. Most of us have looked up to the British model as the best. For the last thirty or forty years, some kind of responsibility has been introduced in the governance of this country. Our constitutional traditions have become Parliamentary. . . . After this experience why should we go back upon the tradition that has been built for over a hundred years and try a novel experience?²⁵

During the four decades of the functioning of parliamentary system in India, times have come when opinions differed on the question whether our Constitution in its present form is best suited to subserve the nation's basic needs and priorities irrespective of the fact that it had been amended sixty-nine times, during its operation. Since the last decade a campaign has been going on in the country for the change from Parliamentary to Presidential form of Government. Much depends on what we understand by 'Presidential' and 'Parliamentary' In fact, it is very difficult to classify political systems to-day. Each country has a system of its own.

We can see that our constitutional experts and founding fathers tried to take the best from both systems to give a model written Constitution to India. This is important because in the best known parliamentary system of the world i.e. the United Kingdom, the parliamentary system has evolved and continues to evolve without a written Constitution. The concept of having a written Constitution is taken from the Constitution of USA where the Presidential form of democracy is in existence.

Founding fathers of the Constitution considered the Parliamentary system as the best arrangement for India. It provides a rational institutional basis for political behaviour—the direct electoral system. Periodic elections keep the governments in check as previous elections have largely demonstrated. They are a strong positive counterforce to political and social authoritarianism.

Indeed, all that was visualised by the framers of our Constitution has really worked out successfully and the system of parliamentary form of government, both with its merits and demerits,

continues to evolve itself and has been a great system so far.

Union-State Relations

Centre-State relation in a federation is a sensitive subject. In a federal system which is a complicated and cumbrous arrangement, there is always a possibility of conflict of jurisdiction and clash of wills between the Centre and States even at the best of times. The problems that arise are many and complex. Some are as old as federation itself, and some are new. The basic controversy revolves round the question of distribution of powers between the Centre and States and over-centralisation *versus* decentralisation. While some feel that the federal government should be strong, others feel that the States should be given greater autonomy.

When India became independent, the framers of the Constitution perceived the need for a strong Union Government which would keep the disintegrating forces in check and safeguard the unity and integrity of the country. They preferred to call India a 'Union of States' rather than a "Federation". However, our Constitution does incorporate some of the basic federal characteristics. Federalism, as a principle, is a combination of unity and diversity. However, the theory and practice of federalism has undergone a notable change in the past few years because of certain compulsive factors in the modern age.

Recent Developments

In the present day Indian politics, Centre-State relations has been an area of major concern. For nearly two decades after independence, the relations remained more or less smooth primarily because of the dominance of one party at the Central and State levels. Prior to 1967, there were no doubt, occasions when differences arose between the Centre and the States on one issue or the other, but, by and large, these issues were conveniently treated as intra-party affairs because the same party, viz. the Congress, held the reins of power both at the Centre and in most of the States. The year 1967, however marked a watershed in the post-independence political and constitutional development of India. Since the Fourth General Elections held in the year, the Centre-State relations entered a somewhat difficult phase warranting careful attention and cautious treatment.

In 1979 manifold voices were heard again to

²⁵C.A.D., Vol. VII, p. 984-985.

regain local and regional initiatives. States openly expressed the views that the Centre was "exercising too much power" and that the States were being impoverished in harnessing political talent.

But never before the federal structure of the country felt so much threatened by the strain in Centre-State relationship as is, unfortunately, today, what has now come to be of utmost concern is the increasing feeling amongst the States that their rights and claims are being curtailed and this tendency has been gaining ascendancy over the years.

Attempts were made on various occasions to examine the issues relating to Union-State relations, by the Administrative Reforms Commission in 1966, and the Rajamannar Commission in 1971.

Taking note of the growing discontentment with States' role in our federal system, the Government of India felt the need for a review of the existing arrangement between the Union and the States and a Statement on the subject was made by the then Prime Minister in both the Houses of Parliament on March 24, 1983 in pursuance of which the Sarkaria Commission was appointed with a view to examine in detail the Centre-State relations and make suitable recommendations for the harmonious working of the federal polity by minimising the tension areas. The Report of the Commission was published in January 1988, but due to the comprehensive nature of recommendations and changed political situations, the implementation of Sarkaria Commission Report is still pending. The Commission is opposed to any drastic or radical changes of the existing constitutional set up. It however, emphasised the need for constant consultations and cooperation between the Centre and the States. The Commission focusses attention on "co-operative federalism" and recommended making it a permanent feature of the India's federal structure. As recommended, the National integration Council has also been set up with a view to find out in what manner the recommendations of Sarkaria Commission could be accepted and adopted. The NIC has already met thrice.

Right to Property

Right to property which was earlier finding a place in the Fundamental Rights enshrined in Part III of the Constitution, underwent major changes on as many as five²⁶ occasions since the coming into force of the Constitution. It may be stated that no fundamental right had caused so much trouble, and had given rise to, so much litigation²⁷ between government and the citizens as the right to property laid down under articles 19(1) (f) and 31. The main reason for this had been that the Central and State Governments had undertaken large scale legislations affecting property rights.

As a result of all this, it was considered necessary to take away this right to property from the chapter of Fundamental Rights and make it a right which would be governed by the ordinary Right. Accordingly, by the Constitution (44th Amendment) Act, 1978, both articles 19(1) (f) and 31 have been omitted from part III of the Constitution and a new chapter "Right to Property" containing an article 300A has been added in the Constitution.

Constitution as an Adaptive Instrument

(1) Emergency provisions

The emergency provisions of the Indian Constitution point to the strong executive system erected by the Constituent Assembly. Their inclusion in the Constitution is the result of a compromise between the principles of constitutional government and strong and effective government.

The Constitution of India provides for the following three emergencies.

- (i) National emergency, to be proclaimed in the event of war, external aggression or armed rebellion.
- (ii) State Emergency (President's Rule) arising from the break down of constitutional machinery in a state; and
- (iii) Financial emergency, arising out of threat to financial stability of credit of India or of any part of the territory thereof.

²⁶By the Constitution First, Fourth, Seventh, Twenty-fifth and Forty-second Amendment Acts of 1951, 1955, 1964, 1971, 1976 respectively.

²⁷The Amendments in the article 31 were actually carried out as a result of Supreme Court decisions in *Bela Banerjee's case* (AIR 1954, SC 92) *Karimbil Kunhikoman V. State of Kerala* (AIR 1962 SC 728), *Bank Nationalisation Case* (AIR 1970 SC 564) and *Kesvanada Bharati Case* (AIR 1973 SC 1961)

The Major Emergency Proclamations

Although the Constitution has provided for three kinds of emergencies, there has been no Proclamation of Financial Emergency so far. Article 352 relating to National Emergency has been invoked thrice. It was invoked first in October 1962 to meet the threat on India's security as a result of Chinese aggression in the Himalayas; again in December 1971 during the war with Pakistan over Bangladesh and finally in June 1975 because of apprehended internal disturbance.

There was criticism of the President's action in proclaiming emergency on June 25, 1975, on the ground, among others, that there was already a proclamation in operation. The Government responded to the criticism by amending the Constitution. The 38th Constitution Amendment Act, 1975 amended Article 352 by inserting clauses (4) and (5) which were deemed always to have been inserted. Clause (4) declared that the power of the President to proclaim an emergency shall include the power to issue different proclamations on different grounds, whether or not there is a proclamation already issued by the President under clause (1) of Article 352 and such proclamation is in operation. Clause (5) declared that no Court in India shall have the jurisdiction to entertain any question, on any ground, regarding the validity of a proclamation or its continued operation. The 'satisfaction' of the President in these matters shall be final and conclusive. However, by the forty-fourth Constitution Amendment Act, 1978, article 352 was once again amended to substitute the words "internal disturbances by 'armed rebellion'". Also, the President will thenceforth not issue a proclamation of Emergency unless such a decision of the Union Cabinet has been communicated to him in writing. Further, clause (5) regarding bar on judicial review was also omitted.

Dissolution of the Assemblies under Article 356 at the instance of the Union.

It may perhaps be pertinent here to refer to an oft repeated Question whether the Union has got any power through the device of article 356 to suspend the State Government. After coming into power at the Centre in 1977 the Janata Government opined that the Congress Party having lost the general election had no moral right to continue in power in 9 States which had overwhelmingly voted for the non-Congress parties in the general election to Lok

Sabha. It therefore felt that these State Governments should seek fresh mandate. However, the Chief Ministers of these States advised their respective Governors not to dissolve the Assemblies. But by using the device of Proclamation under article 356, all the nine States Assemblies were dissolved.

After the fall of Janata Government at the Centre, the President of India, at the instance of Congress (I) Government again issued another Proclamation in 1980 under article 356 in the same manner as was done by the Janata Government in 1977. By this proclamation nine State Assemblies were dissolved and legislative powers were assumed to the Union Government.

In both cases, the matter was taken to the Supreme Court which held that it was not possible to hold, on the basis of facts on record, that the order of the President under article 356 suspending the constitutional system in the relevant States was actuated by malafides or extraneous consideration. The net result is that if any State Legislature is dissolved at the instance of the Union through its power under article 356, the aggrieved State has no remedy from the Courts.

Only recently, at the start of the current Session (Budget Session 1992) of Lok Sabha, the matter of amendment of Article 356 came up for a comprehensive review through a Private Member Bill. The Consensus that emerged in this discussion was that while drafting this very provision in the Constitution, the framers of our Constitution had in mind the perception of unity and integrity of India. Members however, had a feeling that while there is a need for very strong Centre, the Centre cannot be strong by taking away powers from the States. In fact for a really strong Centre "we very much need strong States and cooperation and coordination between them. Centre had certain functions to perform and the States have other functions to perform. There should not be any conflict or confrontation."^{27A}

(2) Amending provisions

All Constitutions need change from time to time. If the Constitution is not changed to suit changing conditions, it would become an impediment to growth and would prevent society from adjusting itself to dynamic situations. A Constitution has to work not only in the environment in which it was framed but also decades later. It must, therefore be capable of adapting itself to new conditions as they arise.

^{27A}L.S. Deb., 28 Feb. and 13 March 1992.

Constitutions are usually classified as 'flexible' or 'rigid', depending on whether they can be amended by the legislature through the same process as any other law or by a special process laid down for that purpose. The Constitution of India may be described as partly flexible and partly rigid. It is interesting to note that the Constitution elaborate and complex as it is, has an built-in flexibility. Explaining, why it was necessary to introduce an element of flexibility in the Constitution, Pt. Nehru observed in the Constituent Assembly:

"While we want this Constitution to be as solid and as permanent in structure as we can make it, nevertheless there is no permanence in Constitution. There should be a certain flexibility. If you make anything rigid and permanent, you stop a nation's growth, the growth of a living, vital organic people. In any event, we should not make a Constitution, such as some other great countries have, which are so rigid that they...cannot be adopted easily to changing conditions. Today, especially, when the world is in turmoil and we are passing through a very swift period of transition, what we may do today may not be wholly applicable tomorrow."²⁸

Elements of flexibility were, therefore, introduced into the Constitution by providing three ways of amending it. Firstly, there are those provisions that can be effected by parliament by a simple majority, secondly those that can be effected by Parliament, by a prescribed 'special majority' and thirdly, those that require, in addition to 'special majority', ratification by at least one half of the State legislatures. So far as the first category of amendments is concerned, the normal legislative procedures of the House of Parliament hold good since all such amendments are brought about by Laws passed by parliament in exercise of its ordinary Legislative powers. The procedure for framing the Constitution amendment of the other two categories is governed by article 368.

There is however, one lacuna in the amending process in that the Constitution does not prescribe a time-limit within which State Legislatures should ratify or reject an amendment bill. They may kill the bill by sleeping over it. Such a situation may arise if one party is in power in the Union and another in the States.

The Constitution of India has so far proved to be very flexible and adaptive because of the wide variety in the amending process. As many as 69 amendments have been passed till date and some of them have significantly altered the Constitution to fulfil the peoples' new demand on the political system.

Concept of 'Basic Structure'

Until the case of *I.C. Golak Nath V. State of Punjab*²⁹ the Supreme Court had been holding that no part of the Constitution was unamendable and that Parliament might, by passing a Constitution Amendment Act, in Compliance with the requirements of article 368, amend any provision of the Constitution, including the Fundamental Rights and article 368.³⁰ But in *Golak Nath's Case*, the Supreme Court (by a majority of 6:5) reversed its own earlier decisions up-holding the power of Parliament to amend all parts of the Constitution. In *Golak Nath's case*, the Court held: amendment of the Constitution is a legislative process and a Constitutional Amendment under article 368 is "law" within the meaning of Article 13 of the Constitution. Hence a Constitutional Amendment which "takes away or abridges" a fundamental right would be void.

As a result of the judgment of the Supreme Court in *Golak Nath's case*, Parliament thought it necessary to pass, in 1971, the Constitution (Twenty-fourth Amendment) Act. This Act has amended the Constitution to provide expressly that Parliament has power to amend any part of the Constitution including the provisions relating to Fundamental

²⁸C.A.D. Vol. VII, pp. 322-23.

²⁹A.I.R. 1967, Supreme Court 1643.

³⁰In *Shankar s Prasad Singh Deov. the Union of India* (A.I.R. 1951 S.C. 458) the Supreme Court unanimously held : The terms of Article 368 are perfectly general and empower Parliament to amend the Constitution without any exception. In the context of article 13, 'law' must be taken to mean rules or regulations made in exercise of ordinary legislative power and not amendments to the Constitution made in exercise of constituent power, with the result that Article 13(2) does not affect amendments made under Article 368.

In *Sajjan Singh V. The State of Rajasthan* (AIR 1965 S.C. 845), the Supreme Court (by a majority of 3:2) held: When Article 368 confers on Parliament the right to amend the Constitution, the power in question can be exercised over all the provisions of the Constitution....it would be unreasonable to hold that the word 'Law' in Article 13(2) takes in Constitution amendment Acts passed under Article 368.

Rights. This has been done by amending articles 13 and 368 to make it clear that the bar in article 13 against abridging or taking away any of the fundamental rights does not apply to constitutional amendments made under article 368.

In *His Holiness Kesavananda Bharati Sripadagalvaru V. State of Kerala*,³¹ the Supreme Court reviewed the decision in the Golak Nath's case and went into the validity of the 24th, 25th, 26th and 29th Constitution Amendments. The case was heard by the largest ever Constitution Bench of 13 judges. The bench gave eleven judgments, which agreed on some points and differed on others. Nine judges summed up the "Majority View" of the Court thus:

- (i) Golak Nath's case is over-ruled.
- (ii) Article 368 does not enable Parliament to alter the basic structure or framework of the Constitution
- (iii) The Constitution (Twenty-fourth Amendment) Act, 1971 is valid.
- (iv) The first part of section 3 of the Constitution (Twenty-fifth Amendment) Act, 1971 is valid. The second part namely "and no law containing a declaration that it is for giving effect to such policy shall be called in question in any court on the ground that it does not give effect to such policy" is invalid.
- (v) The Constitution (Twenty-ninth Amendment) Act, 1971 is valid.

The concept of the basic structure of the Constitution, a novel principle in Indian Constitution law, was thus enunciated by the Supreme Court in *Keshavananda Bharati Case* which is considered to be one of the milestones in the annals of jurisprudence.

In this case, the Supreme Court held that while Parliament does have the power to amend any provision of the Constitution, this power cannot be so exercised as to alter or destroy the basic structure or framework of the Constitution. Thus, the amending power of Parliament is not plenary or absolute, but is limited in its scope. Parliament does not possess the power to alter or destroy any of the essential features, basic elements or fundamental principles of the Constitutional scheme which give the Indian Constitution its identity and integrity. This was a new theory propounded by the Supreme Court for judicial review of Constitutional amendments.

The theory of basic structure of the Constitution was reaffirmed and applied by the Supreme Court in *Smt. Indira Gandhi V. Raj Narain*.³²

Subsequently, in *Minerva Mills Ltd. V. Union of India*³³ the Supreme Court while upholding the concept of basic structure, held:

"Since the Constitution had conferred a limited amending power on the Parliament, the Parliament cannot under the exercise of that limited power enlarge that very power into our absolute power. Indeed, a limited amending power is one of the basic features of our Constitution and, therefore, the limitations on that power cannot be destroyed. In other words, Parliament cannot, under Article 368, expand its amending power so as to acquire for itself the right to repeal or abrogate the Constitution or to destroy its basic and essential features. The donee of a limited power cannot by the exercise of that power convert the limited power into an unlimited one."

Planning

Planning in a democratic state is a social process. Long before India attained independence and our Constitution was finalised, Pandit Nehru had mooted the concept of planning into the Indian Economy. But curiously enough, the word 'planning' does not appear in any of the clauses of the Constitution and there is neither a mention of it in the Union List nor in the State List. The Concurrent List does however refer to 'Economic and Social Planning'. In pursuance of the power conferred by the entry of Concurrent list, a Planning Commission was set up in 1950 by a resolution of the Government of India. This was non-statutory body set up by a executive resolution of the Government.

Initially, the function of the Commission was to formulate integrated Five Year Plans for economic and social development and for the most effective and balanced utilization of the country's resources which would initiate a process of development which will raise living standards and open out to the people new opportunities for a richer and more varied life. Today, the Planning Commission has evolved into an elaborate organisation, almost akin to a governmental wing. Planning has pervaded all departments of government both at the Centre and in the States and this accounts for ever increasing sweep of economic

³¹ A.I.R. 1973, Supreme Court 1461.

³² AIR, 1975 SC 2299.

³³ AIR, 1980 SC 1979.

and financial responsibilities of the Planning Commission. Plans of socio-economic development are drawn up by the Planning Commission. The economic growth and development of the country depends on the nature of the Planning and this has resulted in centralised planning and control.

The Present Constitutional Issues for Debate

Forty-two years ago, the Indian people embarked upon a journey, in quest of 'JUSTICE' social, economic and political, 'LIBERTY' of Thought, expression, belief, faith and worship, 'EQUALITY' of status and of opportunities and 'FRATERNITY' assuring the dignity of the individual and the unity and integrity of the nation. The ship in which they embarked on the journey was the ship of a democratic republic. In the course of the voyage, our democracy has been strengthened by concepts like socialism and secularism. The time is now ripe for introspection and consideration that how far we have progressed, and what are the failures or deficiencies, if any, in the working of our Constitution? The areas in which we may perhaps traverse could be as follows:—

Preamble

The Constitution on behalf of the people of India specifically declares to constitute India into a "sovereign socialist secular democratic republic" But what about cultural aspects? Is the time not ripe to protect and develop national and international culture. And also to include scientific, managerial, educational, artistic, spiritual aspects as well in the Preamble?

Fundamental Rights

Though the Fundamental Rights as incorporated in our Constitution theoretically project certain freedoms to the citizens of India but practically are these freedoms enjoyed by all? For example, article 21 states that no person shall be deprived of his life and liberty except according to due process of law. Right to life in simple terms means right to food, right to work, right to education, right to shelter, and so on. But none of these rights are included as Fundamental Rights. Then how can a person enjoy, right to speak, right to reside without having right to shelter or without having a right to work or without having a right to education. If this lacuna has remained in the Constitution unintentionally, the question arises whether the time has come now to include these rights in the Chapter of Fundamental Rights?

Form of Government

With the stresses and strains mounting on the political system and assuming newer dimensions, doubts have arisen if an alteration in the form of Government *i.e.* from present Parliamentary system to Presidential one, can ease the tension. As it is, a debate has been going on in the country for nearly a decade in different fora. On *Presidential versus Parliamentary* form of Government. Assuming, that this on-going debate leads to the conclusion that the newer form or an alternative would be better than the existing one. What guarantee is there that operationally it would be as effective as it has been made out on theoretical arguments or that it would be an improvement on the existing one?

Union-State Relationship

The Union-State relations stand at cross roads today. How national interest, perceived at the Union level is to be preserved even while safe guarding conflicting interests of the States or of different regions has assumed the nature of a perpetual dilemma. The vital issues that emerge for debate are whether the State power had been eroded in the Centre-State Relations or should the States be given more autonomy? How the unity and integrity of the country is to be preserved in the face of increasing divisive forces appearing in different forms and in different parts of the country. Then stability of Governments and desirability of having frequent elections is also a matter which deserves serious thought. Likewise, what has been and what should be the role of the Governor? Should this Post be abolished? Whether articles 356 and 357 be amended so as to put some control on the frequent use of the device of President's rule in the States?

Electoral System

Under the existing electoral system *i.e.*, simple majority system, political parties do not get seats in Lok Sabha in proportion to the percentage of votes polled to them. In almost all the general elections to Lok Sabha held so far, the party which came into power invariably had more seats to its credit than the percentage of votes cast in its favour. As a result of the disproportion between the votes polled by the Parties and the number of seats won by them in the Legislatures, a demand is often made for a switch-over from the present election system of 'first past the post' to some kind of proportional representation so as to eliminate the imbalance. But, will the much advocated list system be feasible in a large country like ours? Moreover, will it not lead to multiplicity of

Parties or to endless Governments by coalitions formed as a result of wheeling and dealing among different Parties?

For quite sometime, debate about Electoral Reforms is going on. Various Committees at different level and of different compositions have gone into it. Unhindered use of money and muscle power in elections seem to have put a question mark over the future of the Political System itself—nay on the very survival of democracy in the country.

Amending the Constitution

In the course of forty-two years of its working, our Constitution has been amended as many as 69 times. Whether so many amendments made, mean that our Constitution was not well-drafted? Or the amendments were necessitated due to new situations arisen with the changing times and needs. Similarly, whether the Constitution needs basic changes and how to do it? Will there be a need for convening a Constituent Assembly for framing a new Constitution? Whether the Constitution should be amended by the existing Parliament or by making a reference to the people *i.e.* by referendum?

Conclusion

India is passing through a critical period in her history. The separatist and communal forces which are at work, are threatening the unity of the country. Though, these problems demand a political situation,

our Constitution, however is flexible enough to meet all contingencies. In spite of stresses and strains, external and internal, the Constitution has stood the test of time, remarkably well and the essential values of democracy and rule of law have survived in our country till now.

Our Constitution is the repository of the collective wisdom of the best of minds in our country who were fully conscious of the enormity of the task entrusted to them. It also embodies the best tenets of several other world constitutions. If things have gone wrong somewhere, the fault lies not with the Constitution, but with those practitioners of the Constitution, who are implementing its various provisions. Our Constitution is the product of human experience over the ages, all over the world. It is not the work of one single individual. It will be an affront to the sagacity of those visionaries if today we blame the Constitution for any malady.

While, visualising the working of the Constitution, Dr. Ambedkar had rightly observed:

“I feel that it is workable, it is flexible and it is strong enough to hold the country together both in peace-time and war-time. Indeed, if I may say so, if things go wrong under the new Constitution, the reason will be not that we had a bad Constitution, what we will have to say is that man was vile.”