Vivek

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Compulsions Of Good Neighbourliness

Pakistan's Mindset Remain Unchanged

Good Governance – Strong Nation

Transformation In Afghanistan

and many more ....

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India And The South Asian Neighbourhood

- ***Kanwal Sibal***

India's relations with its neighbours need to be analysed frankly and unsentimentally, without recourse to the usual platitudes when pronouncing on the subject. It is fashionable to assume that there is some larger moral imperative that governs the relations between neighbours, with the bigger country obliged to show a level of generosity and tolerance towards a smaller neighbour that would not be applicable to the attitudes and the policies towards a more distant country. The compulsions of "good neighbourliness" between countries are, however, not the same as between neighbours in the same building or the same street. In the case of the latter, the rights, obligations and duties of citizenship are the same, all live under the authority of the same state and conflicts are mediated through the instruments of law. We should not commit the mistake of transposing to international relations the codes of conduct between citizens of the same country. The commandment "Love thy neighbour as thyself" elicits no obedience from the chancelleries of the world.

Before talking of India and its neighbours, we should have a clearer idea of what, in India's eyes, constitutes its neighbourhood. Should we look at India's neighbourhood strategically or geographically? If the first, then a case can be made out that India's neighbourhood encompasses the entire region from the Straits of Hormuz to the Straits of Malacca. This is India's security parameter. Developments in this region have a major impact on India. On the western side, six million Indians are employed in the Gulf, sending back almost $35 billion as remittances. This region is the largest supplier of oil and gas to India. This area is the heart of Islam and influences and ideologies emanating from there impact on our immediate external environment and indeed, to an extent, the domestic scene. In any case, if India had not been divided in 1947, its western frontier would

* *Kanwal Sibal – Member Advisory Board, VIF*

have extended to the Persian Gulf.

In the east, India's possession of the Andaman and Nicobar islands stretches our frontiers to the other choke-point, the Malacca Straits. The Bay of Bengal has Bangladesh, Myanmar and Thailand as littoral countries. This stretch of the sea is our link to Southeast Asia and beyond. For buttressing our Look East policy, this area is of vital importance. Apart from India forging bilateral ties with these countries, the security of the sea lines of communication in an area where the only regional blue water navy is Indian devolves some special responsibilities on India.

If geography alone were to determine who our neighbours are, then Pakistan, Nepal, Bhutan, Bangladesh, Sri Lanka and Maldives constitute the core of our neighbourhood. Myanmar is a contiguous neighbour, but as we have conditioned ourselves over the years to view essentially the SAARC countries as our neighbours, Myanmar is lost sight of, despite its critical geographical location adjacent to our north-eastern states. Myanmar, which applied for full membership in May 2008, has yet to consummate it. However, with the rapid changes in the country, its opening up and the progressive removal of sanctions it has been subject to, its profile as India's neighbour will keep rising.

Afghanistan may not be a direct geographic neighbour today, but given the fact that we consider Pakistan's occupation of the northern areas in Jammu and Kashmir as illegal, we can in a sense treat it as one. In any case, with the inclusion of Afghanistan as a full member of SAARC, the political case for treating Afghanistan as an integral part of our neighbourhood stands reinforced.

Afghanistan may not be a direct geographic neighbour today, but given the fact that we consider Pakistan's occupation of the northern areas in Jammu and Kashmir as illegal, we can in a sense treat it as one. In any case, with the inclusion of Afghanistan as a full member of SAARC, the political case for treating Afghanistan as an integral part of our neighbourhood stands reinforced.

With China's occupation of Tibet, that country has become our direct neighbour. The outstanding border issue between India and China constitutes a major Indian foreign

policy problem, colouring our relationship with the world's foremost rising power. Moreover, in India's perception, China has adversely influenced India's relations with its South Asian neighbours. China therefore qualifies as India's most formidable neighbour, affecting India's role not only in the South Asian region, but in Asia as a whole, and even at the global level.

The management of relations with neighbours is always a declared priority of any country's foreign policy. The assumption is that a stable neighbourhood strengthens a country's foreign policy posture, whereas an unstable and troubled neighbourhood saps its ability to act fully effectively on the international stage. The credibility of a country's regional and global posture, it is believed, is also undermined if it is seen as embroiled in disputes and conflicts with neighbours. The accepted view is that the time and energy spent in controlling events in the immediate neighbourhood is at the cost of pursuing wider interests at the regional and global level.

In actual fact, most countries have very problematic relations with neighbours, and yet many are not held back because of this. Historically, Britain rose to global power status despite almost ceaseless conflicts with its neighbours. France became a world power despite being embroiled in wars with neighbours. China has huge problems with its neighbours, without this affecting its inexorable rise today as a global power. Turkey has problems with virtually all its neighbours, without this materially affecting its rise to regional power status. It is, therefore, open to question whether a stable neighbourhood is a pre-requisite for a country's rise to regional or global status. There are many other factors at play that allow countries to rise and flourish even if their neighbourhood is not peaceful.

While, in theory, the need to have a peaceful, stable and friendly neighbourhood may appear self-evident, what would that mean in practical terms? Can one have good relations with neighbours simply because that would be desirable in itself? Can one build such relations unilaterally? To what extent should one be willing to make concessions? Should one look for reciprocity or not? How far is it the responsibility primarily of the bigger country to make the

requisite effort in forging positive relationships? Is a smaller country always right in its demands? Can a country demand or plead for extra consideration simply because it is smaller? Should it on that basis be entitled to a more sensitive treatment of its fears, vulnerabilities and even paranoia?

These are not the only issues that arise in any examination of the conditions in which the neighbouring countries relate to each other. What about the role of third parties, of external actors? During the Cold War period, the competing powers had an incentive to extend their political and ideological reach to all corners of the globe. In that process, relations between neighbours, who were pulled at times in different ideological directions, were distorted, adding to the already existing tensions or misunderstandings. Today, in the age of globalisation, different pulls and pressures operate, and these could be helpful or harmful depending on circumstances.

Sections of Indian public opinion are acutely conscious of India's failure to stabilize its own neighbourhood. It is argued that India as the biggest country in the region has the primary responsibility for managing the regional environment. Often India is criticized for not being sufficiently generous to its neighbours, of hesitating to make unilateral concessions to them, which it is believed it can well afford to do.

The short point is that countries cannot always act in their neighbourhood as they please depending on local advantages in power equations. Outside forces will be there to provide a counterbalance, either because a particular country might want to bring an external power into the neighbourhood to reduce the weight of a perceived regional hegemon, or external powers themselves, pushed by balance of power considerations, or policies of containment, may intrude into the region on their own and manipulate their local partners for larger strategic purposes.

Sections of Indian public opinion are acutely conscious of India's failure to stabilize its own neighbourhood. It is argued that India as the biggest country in the region has the primary responsibility for managing the regional environment. Often India is criticized for not being sufficiently generous to its neighbours, of hesitating to make unilateral concessions to them, which it is believed it can well

afford to do. Such concessions are advocated especially on the economic side, the argument being that India as a huge economy can easily absorb the limited sacrifice that is expected of it, and in the process can attach the neighbouring economies to itself in a mutually beneficial manner. The stakes which develop because of this interdependence would theoretically make it difficult for other governments to pursue adversarial policies beyond a certain point. Poor border management, failure to create proper border posts and customs infrastructure is viewed as another example of insensitivity to the need to facilitate relations with neighbours.

Such criticism overlooks many complexities. For one, India's capacity to order its neighbourhood in a manner congenial to its requirements is exaggerated. India did intervene in Sri Lanka in agreement with its government, but the experience left it chastened to the point that it rejected an intrusive role in Sri Lanka later as the ethnic conflict grew, even when other countries prompted it to take greater responsibility for steering the course of events there in the right direction. It abdicated playing the central role in the developments leading to the defeat of the LTTE, and it is to be seen how much constructive influence it can bring to bear in ensuring that the present opportunity to settle the Tamil question equitably is not lost. India's intervention in the Maldives at the request of its government was more successful, but this cannot be construed as an attempt by India to shape its immediate environment to suit its needs, or a model for future interventions.

India has been sensitive in handling the issue of democracy in its neighbourhood. Even as the Western democracies seek to impose democratic values on others and use instruments of moral reprobation and boycotts to coerce select non-democratic countries to reform their political systems, India has abjured such thinking. Its basic approach is to do business with whichever government is in power. Even as there is awareness that a truly democratic system in Pakistan, that limits the power of both the armed forces and extremist groups, would be beneficial to India-Pakistan ties, India has not sought to interfere in Pakistan's internal politics. On the contrary, it has willingly done serious

business with Pakistan's military regimes, especially with that of General Musharraf. Likewise in Bangladesh, India has never rejected serious engagement with the military regimes there. In the case of Myanmar, even at the cost of earning some diplomatic flak, India has sought to build close ties with it irrespective of the country's regime for reasons of overriding national interest. India will of course abide by legalities and UN sanctions against any country for transgression of the norms, but participating in a crusade for democracy because of a sense of superior political values is not part of India's thinking about its neighbourhood and beyond. For India this is practical politics, shorn of the hypocrisy of those who promote democracy selectively and at lowest political and business cost to themselves.

India, despite its size and power, is, ironically, the country most targeted by terrorism from its own neighbourhood. Although terrorism is now considered a global threat and the consensus that it should be fought collectively by the international community has been largely forged, India is still threatened by this menace as Pakistan, where the epicenter of terrorism lies, has not yet been summoned by the international community, acting through the UN, to eradicate it.

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substantive step in the last four years to try those responsible for the Mumbai terrorist attack and the unwillingness of its leadership to accept that terrorism remains a crucial outstanding issue in India-Pakistan relations indicates that the nexus between the jihadi groups and the political and military power centres in Pakistan will not be easily broken. India by itself lacks the capacity to coerce Pakistan to abjure terrorism as an instrument of state policy, especially as Pakistan now has the nuclear cover for its lawless activities. Pakistan sees the extremist religious forces that resort to terrorism as allies against India and potentially in the takeover of Afghanistan after the western forces depart.

Within the SAARC region, apart from the recognition by the Karzai government of Pakistan's sponsorship of terror, the other countries keep their political distance from the problem. Each of them, barring Bhutan, has interest in maintaining good ties with Pakistan for a mixture of motives that include leveraging Pakistan's hostility towards India to their own advantage, combining forces against the threat of Indian domination, putting constraints on India's freedom of action within the region, not to mention the need to politically manage their own Muslim communities. Pakistan of course has always had an interest in undermining India's leadership role in South Asia. SAARC conventions on combating terrorism have little meaning given Pakistan's complicity with terrorist groups. Pakistan in fact uses Nepal and Bangladesh as bases for infiltrating terrorists into India, or in the case of Bangladesh, using local extremists for targeting India, though with Sheikh Hasina's government in Bangladesh this activity has been greatly curtailed.

The debate about unilateral concessions versus reciprocity is somewhat besides the point in international relations. A big country has no less responsibility than a small one to legitimately maximize its own interests. No country can sustain a policy of making unilateral concessions. If the logic is accepted that it is for the bigger country to make concessions, then it could be argued that the US should base its international policies on making unilateral concessions to all. And so should China. India has tried a policy of unilateral concessions in the late 1980s and the early 1990s, but the results have been meager.

It is ultimately a question of pragmatism. If making a concession in one area can yield a return in another area, it should be made. In any case, reciprocity need not be confined to balanced exchanges in specified areas. If Nepal, for instance, had been more sensitive to India's security interests because of the open border, India could have been generous in areas of Nepal's interest. If Bangladesh, as is the case now, is more cooperative in dealing with anti-Indian insurgents seeking shelter on its territory, it would certainly make India more receptive to some of its demands on the commercial side. In fact this has already happened. What does India do in a situation in which Nepal has for years blocked any progress in implementing joint water resources projects, or Bangladesh has until now even refused to talk about according transit rights through its territory to north-eastern India or make a joint effort to promote energy security along with Myanmar?

Rather than look at such issues within the framework of bilateral relations between India and its neighbours, they should be looked at within the framework of SAARC. The problem of unilateralism or reciprocity disappears once the SAARC countries as a whole agree on terms of trade and economic exchanges. Unfortunately, Pakistan right from the start worked to limit progress within SAARC so that its own policy of linking trade exchanges with India to a resolution of the Kashmir problem did not get undermined. For this reason, it did not adhere to its obligations to India under SAFTA. Indeed, because of Pakistan's obstructive policies, economic integration in the SAARC area is poor. This situation is beginning to change with fruitful talks between India and Pakistan to enhance trade with each other. Pakistan has agreed in principle to grant by the year-end MFN treatment that it has long denied to India. With the

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recently concluded Commerce Secretary level talks, substantive steps on the trade and investment front have been listed in the joint statement. This change in Pakistan's attitude has occurred not because of India's prodding but because of an internal assessment Pakistan has itself made on the advantages to it from expanded economic ties with India, given the dire economic straits Pakistan is in. Pakistan has not yet felt the same compulsions on terrorism and other differences with India and hence it clings still to its negative political postures. Now that Afghanistan has joined SAARC, common sense would dictate that Pakistan accord transit rights through its territory to facilitate Afghanistan's trade with India as part of the process of stabilizing Afghanistan and giving its people economic opportunities so that they can, amongst other benefits, expand their legitimate economy and conditions are created for the reduction in size of the illegitimate drug based economy.

Beyond the disparity in size, India's neighbours share with it strong civilizational, cultural, linguistic and ethnic ties that are deeply rooted in history. Normally these bonds should have brought the countries of the Indian sub-continent closer together, being theoretically the building blocks of an enduring people-to-people relationship. But this has not happened for various reasons.

India, of course, physically dominates its neighbourhood. Most of its neighbours are very small in comparison, geographically, demographically and economically. Even Pakistan, the second largest country in South Asia, is less than 15% of India's size demographically and economically and is not too much more geographically. Beyond the disparity in size, India's neighbours share with it strong civilizational, cultural, linguistic and ethnic ties that are deeply rooted in history. Normally these bonds should have brought the countries of the Indian sub-continent closer together, being theoretically the building blocks of an enduring people-to-people relationship. But this has not happened for various reasons. For one, India's overwhelming civilizational influence makes the neighbouring countries feel insecure in their separate identities. As identity is a core constituent of a sense of nationhood, these countries want

to foster it by consciously asserting their separate identity.

The ethnic links, such as those of the Madhesis in the Terai in southern Nepal with the population of UP and Bihar, and the Sri Lankan Tamils with the Tamils in Tamil Nadu, instead of being a human link between India and these countries, as is the case with the Indian diaspora abroad and their country of origin, is a source of tensions. These sections of the population are not as yet fully integrated into the societies in which they live and suffer from disabilities. They are either suspected for their extra-territorial loyalties or are seen as instruments of Indian influence, or the sympathy and support they receive from groups in India create an atmosphere of distrust in bilateral relations.

From the viewpoint of India's South Asian neighbours realpolitik would demand that they try to balance India's weight by bringing into play external powers. This with the objective of giving themselves greater margin of manoeuvre vis-a-vis India, extorting more concessions from it than would be the case otherwise, not to mention making themselves more eligible for economic and military assistance from powers wanting to check-mate India's rise or imposing costs on India for not following policies congenial to their interests.

Pakistan has, of course, in its obsessive pursuit of "parity" with India and a pathological refusal to accept any status of inferiority vis-a-vis it, has been most instrumental in facilitating the entry of outside powers in the sub-continent. Today China is Pakistan's biggest defence supplier. The US too has not stopped supplying advanced arms to Pakistan as part of its policy to obtain the cooperation of the country's military to help combat the insurgency in Afghanistan. With the US more and more cognizant of Pakistan's duplicity on the terrorism front, tensions in US-Pakistan relations are palpable and Pakistan's support for the US in Afghanistan now a question mark.

The US policy of hyphenating India and Pakistan was decisively abandoned by the Bush Administration in its approach to the nuclear equation in South Asia, though the US thought it necessary to balance its leaning towards India by elevating Pakistan to the status of a "Major

non-NATO ally". With the change of Administration in the US and the Afghanistan morass in which it is caught, Pakistan had found more room to leverage US dependence on it for its operations in Afghanistan to question the legitimacy of India's presence and policies in Afghanistan, not to mention press it to extract some concessions from India on making progress on outstanding India-Pakistan issues without Pakistan being required to move credibly on the issue of terrorism sponsored by it and directed against India. This has now changed, with the US openly supporting a stronger Indian political and economic role in Afghanistan, as well as in military training. India was the first country with which Afghanistan signed a Strategic Partnership Agreement. In Nepal, Bangladesh and Sri Lanka, Indian and US policies have converged far more than was the case in the past, with the result that the governments of these countries are no longer able to leverage India-US differences as before to counter the Indian weight.

China, with its increased political, economic and military weight, continues its policies to counter what one of its commentators described as India's hegemonic policies vis-a-vis its neighbours. It continues to deepen its strategic relations with Pakistan, with current activity in the nuclear field, major road and power projects in POK and the development of Gwadar port.

China, with its increased political, economic and military weight, continues its policies to counter what one of its commentators described as India's hegemonic policies vis-a-vis its neighbours. It continues to deepen its strategic relations with Pakistan, with current activity in the nuclear field, major road and power projects in POK and the development of Gwadar port. In Afghanistan, China is investing heavily in the mineral sector. Geopolitics seem to dictate close China-Pakistan cooperation in Afghanistan, despite current uncertainties about Pakistan's ability to contain its own internal failures.

In Nepal, China is becoming more assertive in demanding that it be given equal treatment with India, one example of which is to ask for its Friendship Treaty with Nepal to match the one with India. With the Maoists now a powerful

political force in Nepal, and given their ideological compulsion to be seen as drawing Nepal closer to China, coupled with their periodic rantings calculated to inflame public opinion against India, the political terrain has become more favourable for China to expand and deepen its presence and influence in Nepal. This can only make India's task in handling Nepal more difficult.

China's position in Bangladesh is entrenched. Even the friendly government of Sheikh Hasina would see it in its interest to maintain close ties with China for the many benefits it can derive from that, including giving India an incentive to woo Bangladesh more. China has earned the gratitude of the Sri Lankan government by supplying it arms that helped in defeating the LTTE militarily. Sri Lanka, along with Myanmar, Bangladesh and Maldives, are, in India's eyes, targets for the naval ambitions of China in the Indian Ocean area to protect its vital lines of communication through these waters. The so-called "string of pearls" strategy involving construction of new port facilities in these countries may have commercial goals in view in the short term but is likely to have military goals in the longer term perspective, To promote these objectives China is bound to step up further its engagement with these countries, especially with increasing material means at its disposal, posing further challenges to India's equities in its neighbourhood. India follows closely China's initiatives in Sri Lanka on the political, economic and military front, including the visit in September of the Chinese Defence Minister to Sri Lanka, the first such visit ever. He seems to have emphasized that the Chinese Army's efforts in conducting friendly exchanges and cooperation with its counterparts in the region are intended for maintaining regional security and stability and do not target any third party.

China has, of course, every right to take dispositions in the Indian Ocean area to protect its trade and energy flows. The countries with which China is cooperating are independent, sovereign countries and have economic and investment plans of their own to which China with its vast financial resources can contribute. Ultimately, for India's neighbours, it is a question of political judgment how far they should be cognizant of India's concerns and

how to balance sometimes different pulls so that they do not become platforms for tensions because of the divergent interests of external partners.

One can broadly conclude that India will not be able to shape its immediate environment optimally for itself in the foreseeable future. Unless Pakistan is ready to genuinely end its politics of confrontation with India, an integral part of which is the over-assertion of its Islamic identity, its propagation of the jihadi mentality, its nurturing of extremist religious groups involved in terrorism, and the political domination of the military in the governance of the country, the SAARC region will remain under stress.

Afghanistan presents potential problems of a grave nature. If the extremist religious forces ultimately win there, the strategic space for these obscurantist elements will expand enormously, with the risk of a seriously adverse fall-out in the region that has either other Islamic countries or large populations of Muslim faith living in non-Muslim countries.

Afghanistan presents potential problems of a grave nature. If the extremist religious forces ultimately win there, the strategic space for these obscurantist elements will expand enormously, with the risk of a seriously adverse fall-out in the region that has either other Islamic countries or large populations of Muslim faith living in non-Muslim countries. A triumphant radical Islamic ideology can be destabilizing for the religiously composite societies of South and South-East Asia. Pressure on India particularly, from these forces would grow. The increasing Talibanisation of Pakistan would be most deleterious for the South Asian environment.

The prospects for a border settlement with China remain distant. China has, on the contrary, added to tensions by making aggressive claims on Arunachal Pradesh. India has been compelled to begin upgrading its military infrastructure in the north in the face of mounting Chinese intransigence on the border issue. With Chinese actions in the East China Sea and South China Sea, India has to be even more on the alert. The tactical alliance between India and China on climate change and WTO issues should not obscure the deeper sources of India-China problems. It must be said though that both

sides have managed to prevent their differences from erupting into military confrontation. No bullet has actually been fired in anger on the India-China border since 1967. China has become India's biggest trade partner in goods, which is a remarkable development.

The political drift in Nepal portends continuing instability there with all its deleterious consequences for the economy. India has to play its role without getting embroiled in domestic controversies to the extent possible, though traditionally anti-Indian forces there would continue to propagate the canard of overbearing Indian interference in Nepal's internal affairs. With the Sheikh Hasina government in power in Bangladesh, India's relations with that country seem set to improve. Bangladesh is showing an unprecedented willingness to deny safe havens to anti-India insurgents and discuss transit issues. If it opens up doors for Indian investments in the country, the economic issues in the bilateral relationship can be addressed to mutual advantage. Bangladesh can play a positive part in linking the eastern region of South Asia to Myanmar, Thailand and beyond. A solution has to be found, however, to the problem of illegal Bangladeshi migration into India.

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The commencement of a dialogue between the US and the Myanmar junta validates India's policy towards that country. If the US has woken up to the danger of leaving China to consolidate its hold over Myanmar, it is all to the good. Here again, India cannot prevent Myanmar from developing close links with its neighbour China. How far it should move in that direction and lose its capacity to manoeuvre is for the Myanmar government to decide. So long as India-China relations are not normalized, India will always have concerns about strategic encirclement.

India's traditionally cordial relations with the Maldives need to be nurtured, especially in view of the attention it is receiving from China at the highest level. The spreading piracy in the South Eastern Indian Ocean also makes Maldives more central in combating this menace. Maldives is gripped with domestic political turmoil, placing India in a delicate position of being invited to intervene in favour of a duly elected government and hesitating to get embroiled in internal political rivalries.

Bhutan has been the only real success story in terms of India's relations with its neighbours. Bhutan has border differences with China. It has kept its distance from Pakistan and the great powers as well, giving them little scope for interfering in its relations with India. This underscores the point that good relations between India and its neighbours depend not only on wise policies on our side, but, equally, the pursuit of wise policies by our partners.

Our relationship with Sri Lanka has been burdened in recent years by the Tamil issue. We have handled it as well as we could from our end. Despite the sensitivities in some quarters in Tamil Nadu, we have supported Sri Lanka on the issue of its territorial integrity and on terrorism. We have been both principled and practical.

As a neighbouring country we cannot ignore what is happening in Sri Lanka if developments there have a political impact in India. On the one hand, India must not intervene in Sri Lanka's internal affairs; on the other, if they impact India's internal affairs, a case for a dialogue opens up with a view to helping find constructive solutions.

The nearly three-decade long armed conflict between Sri Lankan forces and the LTTE came to an end in May 2009. The armed conflict created a major humanitarian challenge, with nearly 300,000 Tamil civilians housed in camps for Internally Displaced Persons (IDPs). India has put in place a robust programme of assistance to help these IDPs return to normal life as quickly as possible.

India does reiterate at the highest levels the need for national reconciliation through a political settlement of the ethnic issue. The element of time is important. With

three and a half years having elapsed since the military conflict issues got resolved, a solution to the political issues remains pending. Whether the level of statesmanship which is required to deal with the complex issues in a longer term perspective will be forthcoming or whether shorter term calculations of political advantage will dictate the policy remains to be seen. Democratic governments are always generous with their own people, and no polity can be stable without mutual trust between its various sections. This is the challenge Sri Lanka faces.

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Dealing With The Neighbour From Hell - The Prime Minister Must Not Visit Pakistan

- ***PP Shukla***

To the insistent clamour that Prime Minister Manmohan Singh must visit Pakistan in the near future, this is a rejoinder, and a plea not to be emotional in our approach to relations with Pakistan. An analysis of the argument in favour of a visit shows that there are really three arguments being advanced in favour of the visit.

The first is that the time is now for an outreach to the people of Pakistan, for it is up to India to strengthen the forces of moderation at a time when that country is wracked by extremist sentiment. The second argument, closely related to the first, is that the decision makers in Pakistan are becoming aware of the dangers their country faces, and are ready to move forward and improve relations with India. Some erudite commentators add a third argument is the form of a history lesson: Europe overcame its problems through economic cooperation, and that is how the two countries should overcome their problems. It worked there, it will work again here.

The idea of an outreach to the "moderates" inside Pakistan is not new. This is exactly what guided Indira Gandhi at Simla, and it was not long before she realised that she had misjudged badly. Within a few months, Bhutto was back to the earlier rhetoric, and denying that any understanding had been reached over Kashmir. Even then, he was also thrust aside, and the proxy war in Punjab started shortly after Gen Zia took over. All our efforts at strengthening the "moderates" were unavailing.

Prime Minister Gujral – may his soul rest in peace – took this further when he became first Foreign, then Prime, Minister. The Gujral Doctrine was specifically aimed at strengthening these "moderates", and it did not do much for the relations, as Pakistani sponsorship of terrorism continued unabated. It did nothing the "moderates" either, who were again thrust aside as another military dictator took over in 1999.

** PP Shukla – Joint Director, VIF*

This time round, the ground reality of Pakistan is even more adverse for such woolly-headed overtures. The military may be somewhat weaker, but that proposition has not been tested. After the removal of Gen Karamat, there was a sense in India again, that the army had been brought under control, an assessment that was buttressed by the weakening of the army after the Kargil fiasco. But more important, even if the army is reluctant to take over formal power, it remains strong, and continues its role in upholding the terror infrastructure. The infiltration of terrorists into India also continues at higher levels than before. Further, the growing radicalisation of Pakistani society, and the growing power of the jihadi network, calls into serious question the notion that the "moderates" are now in a position to make a difference. The fact that the judges who sentenced some of the high-profile killers in recent months had to go into hiding, and sometimes leave the country, tells a very different story from the narrative of those who want the visit to take place. The plight of the Hindus, Sikhs, Christians, and even the Shias is further compelling evidence of the real changes that are taking place inside Pakistan.

The fact that the judges who sentenced some of the high-profile killers in recent months had to go into hiding, and sometimes leave the country, tells a very different story from the narrative of those who want the visit to take place. The plight of the Hindus, Sikhs, Christians, and even the Shias is further compelling evidence of the real changes that are taking place inside Pakistan.

Finally, even the so-called moderates are not the kind that are willing to let the Kashmir issue drop. No, the difference is that they want to talk and settle the Kashmir issue on their terms; their only difference is that they are willing to criticise the use of terrorism for this political end. But their end is the same as that of the hard-line elements. Nobody is even willing to countenance any kind of territorial settlement that would stand a chance of acceptance in India.

The second argument is that there is a change in Pakistani thinking and policies towards India. This boils down to two developments in recent months. The first is a statement made by the Pakistani Army Chief on Siachen. It is worth emphasising that he made these

remarks while visiting – not Siachen, for the Pakistan Army is nowhere in Siachen, but west of Saltoro – where an avalanche had led to the death of some 130 soldiers. Pakistanis were asking why the soldiers were there and why they could not be pulled back to safer distances. Here are the actual words he spoke: "…we'd like to resolve this [Siachen], but there is a method of resolution and of course, we've talked about it, there have been a number of rounds of negotiations and hopefully we should be able to resolve it, and I think we should resolve it."

Our response at the media level was inexplicable: not only did the General say nothing new, his own words indicated as much. He said clearly that there was a method, and it should be used to resolve the issue. This is precisely what we were doing, in the resumed dialogue. There has been a solution in the works for more than two decades, and it has foundered each time on the Pakistani insistence that it will not reflect the actual position held by the troops at present. This itself reflects and suggests bad faith on their part, especially bearing in mind that as early as 1989, then-Foreign Minister Yakub Ali Khan had agreed that, as a military man, he recognised that any troop withdrawal must indicate where from the withdrawal was to take place.

The other issue that has had excessive play has been that of Most Favoured Nation [MFN] treatment for Indian exports to Pakistan. Since the beginning of the year, there has been a clamour in India that this has been done by Pakistan. Of course, nothing of the sort has happened yet, and the promise is that it will happen at the end of the year. Meanwhile, a Pakistan parliamentary panel, headed by a ruling Party MP, has recently recommended against such a move by Pakistan. True, the two countries have moved from a positive list to a negative list, but there is nothing in this that allows Indian goods entry into the country on terms equal to those for other trading partners. In any case, Pakistan is obliged, under WTO rules, to treat Indian exports on MFN terms, but has refused to do so for close to two decades, even though we have given Pakistani exports MFN treatment since the mid-1990's. This actually shows the scant regard it has for its obligations under even international treaties. It is entirely characteristic of us

that we find this a major step forward. Firstly, it has not happened; moreover, it is not a major step anyway.

So much for the signs of change in Pakistan; the other two matters are easily disposed of too. The idea of reaching out to the so-called moderates inside Pakistan is not new. Foreign Minister [later Prime Minister] Gujral, whose sad passing away we have just marked, had just this idea behind the Gujral Doctrine. He did occasionally say that the Doctrine did not apply to Pakistan, but this was only with regard to the principle of non-reciprocity; but in his words and actions, he was always mindful of the possible constituency in favour of better ties with India within Pakistan. Since then, we have maintained a steady posture of nurturing this constituency, through the Vajpayee and the Singh Governments. Under the latter, we even signed some incomprehensible joint statements on setting up a joint terror mechanism, and allowing a gratuitous reference to Baluchistan – all to no avail. If there is a "moderate" group in Pakistan, it is unable to affect policy. From the days of the Gujral Doctrine, right through to the present, we have had terrorist attacks to contend with without cease: from the Kandahar hijacking through the attack on Parliament, attacks in various cities [Bangalore, Delhi and Mumbai], and finally, the carnage in 2008. And on all of these, the Pakistanis have stonewalled any move to bring the terrorists to book. All told, one would be well advised to question whether there is any relevance to this thesis today, given that the extremist elements are much stronger than before, as we saw in the killing of Governor Taseer and Minister Bhatti – their killers were regarded as heroes even among educated middle-class sections of Pakistani society. We are also witnessing the growing terror attacks on the minorities in Pakistan.

From the days of the Gujral Doctrine, right through to the present, we have had terrorist attacks to contend with without cease: from the Kandahar hijacking through the attack on Parliament, attacks in various cities [Bangalore, Delhi and Mumbai], and finally, the carnage in 2008. And on all of these, the Pakistanis have stonewalled any move to bring the terrorists to book.

The proponents of the outreach to the "moderates", therefore, owe it to Indian society to explain why they still persist in this failed enterprise, and when the rest of us will see any results of the Sisyphean undertaking. They owe it to the skeptics, who have historical evidence on their side, to tell us when their efforts will bear fruit, and what the milestones are that will tell us we are on the right track.

Finally, we have to address the European parallel. It is true, of course, that economic cooperation has transformed relations on the Continent, making war unthinkable. But there was a pre-history to this. The Nazi regime was first defeated, Germany dismembered, and the leaders brought to rough justice. A new Government arose in place of the Nazi regime, which disavowed, and negated on the ground, Nazism and all its works. Equally important, it renounced its claim to Alsace-Lorraine, the territorial dispute with France. It was only after all this that the economic cooperation was launched successfully.

There were earlier efforts at sweet-talking and making territorial concessions to the Nazi regime, in the 1930's, but they came to naught. This policy of appeasement has been properly consigned to the litter of failed strategies, and has served as a warning to all future Governments that this is a very unwise policy course. This is the true lesson of European history. Those who forget it, would do well to remember how the West reacted to the election of Kurt Waldheim as President of Austria in the mid-1980's: there was a whiff of suspicion – never conclusively proved – that he had a Nazi past, and that was enough for him to be boycotted by many western countries, and he was declared an undesirable alien in the US.

This author had made some of these points in a letter to the editor of the Indian Express, in response to a particularly fatuous article urging the Prime Minister to visit Pakistan, but the paper chose not to publish it – though it did carry much more abusive letters against the suggestion. Obviously, the idea is to paint the objectors as extremist and unthinking opponents of better ties with Pakistan.

The reality is that Pakistan is growing increasingly isolated as US disenchantment with their duplicitous ways grows. The fear in that country is that India and

America might find it in their interest to coordinate policies on Pakistan, especially as the ISAF moves to pull out from Afghanistan. It would be rich irony if, after decades of asking the Americans to take a hard look at the reality of Pakistan, we were to hold out a lifeline to that country now. It would also be a betrayal of the assurances given to the people of India that the terrorist masterminds of the Mumbai attack would be brought to justice, and there would be no normal contacts until then.

Instead, we are advised by the Pakistan Foreign Minister not to be emotional and to move on beyond one issue. It occurred to no one, then or later, to point out that it was Pakistan that was being emotional about Kashmir, and was fixated on an issue that has been left behind by history, despite every terrorist trick in the trade adopted by Pakistan.

Instead, we are advised by the Pakistan Foreign Minister not to be emotional and to move on beyond one issue. It occurred to no one, then or later, to point out that it was Pakistan that was being emotional about Kashmir, and was fixated on an issue that has been left behind by history, despite every terrorist trick in the trade adopted by Pakistan.

The ultimate irony is that, despite all the efforts by successive Governments – NDA not excepted – to reassure Pakistan that India does not mean any harm, few in the former believe our protestations. Here is a sample from an article in Nation, the Pakistani newspaper:

"The Indian leaders have on many occasions predicted and wished for Pakistan's collapse. We keep hearing across the border voices demanding the re-inclusion of Pakistan into India. It is no secret that India has not only engineered trouble in Pakistan, but also instigated USA to hurt us whenever possible. Right after the Osama incident, the Indian leaders also aired their desire to take unilateral actions into Pakistan. India's intentions are not a secret." [Nation 23 Oct 2011].

Indian leaders have consistently maintained that we have a vested interest in a strong, stable, united Pakistan, and have repeated this sentiment in season and out. But it obviously does not make any impression on some of important media outlets in Pakistan.

It must be clear to all unbiased and uncommitted observers that there is nothing for the Prime Minister to do in Pakistan, and nothing to go for.

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India's Nuclear Deterrence Must Be Professionally Managed

- ***Brig (retd) Gurmeet Kanwal***

India declared itself a state armed with nuclear weapons in May 1998 after the Pokhran tests. Despite the fact that almost 15 years have passed since then, the number of good books on the subject of managing India's nuclear deterrence can be counted on the fingers of one hand. This is partly because academics and strategic analysts find deterrence theory and the complexities of nuclear command and control too esoteric and partly because the Government of India has made no attempt to encourage such research. None of the government funded think tanks have thought it fit to conduct research on this issue. It is to the credit of Vice Admiral Verghese Koithara (Retd) that he has dared to enter what may be loosely termed as forbidden territory. In his book ***Managing India's Nuclear Forces*** **(Routledge, 2012)** Admiral Koithara takes stock of the system in place for managing nuclear deterrence, carefully evaluates its efficacy and makes substantive recommendations to enhance its functionality.

India's nuclear doctrine is built around a 'no first use' policy with 'credible minimum deterrence'. In the interest of strategic stability, India is willing to absorb a 'first strike' and will launch punitive nuclear strikes in retaliation to cause unacceptable damage to the adversary if it is attacked with nuclear weapons. India's nuclear weapons are political weapons meant only to deter the use and threat of use of nuclear weapons against India. It is clearly accepted in India that nuclear weapons are not weapons of warfighting. Hence, India has firmly rejected the use of tactical or theatre nuclear weapons – despite provocation from across its western border. However, India has not publicly demonstrated that it has done what it takes to 'operationalise' its nuclear deterrence. This is the essence of Admiral Koithara's excellent book. In fact, he goes one step further to state that by keeping the armed

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forces out of the nuclear decision making loop, the authorities have actually undermined the credibility of India's nuclear deterrence.

Both the NDA and UPA governments have tended to play down discussion of nuclear issues in the public domain. According to the strategic community grapevine, the late Brajesh Mishra, India's first National Security Advisor (NSA), had issued an informal whip to the effect that no one in government should speak to the media about nuclear deterrence. No discussions or seminars have been held by the three Services to study issues like 'targeting' and deterrence breakdown that are in the military domain. Through various acts of commission and omission, successive governments have created the perception that acquiring nuclear weapons was an end in itself for power and prestige and that since nuclear weapons are political weapons and not weapons of warfighting, the barest minimum needs to be done to create nuclear forces that are robust and usable.

India's nuclear signalling has been marked primarily by the routine flaunting of various models of Agni and Prithvi missiles at the Republic Day parade. No nuclear drills are known to have been held to ensure that the missile groups can deploy in a realistic time frame and that the warheads can be mated with the launchers in real time for early retaliation in the eventuality of a nuclear strike, even though some of these measures may have been practised in secret. Nuclear signaling is an extremely sophisticated art and India appears to have ignored this aspect completely. In view of these major shortcomings, India's nuclear deterrence tends to lack credibility and is not taken seriously by either military adversaries or by the international

Nuclear signaling is an extremely sophisticated art and India appears to have ignored this aspect completely. In view of these major shortcomings, India's nuclear deterrence tends to lack credibility and is not taken seriously by either military adversaries or by the international community. India must demonstrate its resolve to use nuclear weapons if it ever becomes necessary through a carefully formulated process of signaling and must enhance the quality of its warhead and missile technology.

community. India must demonstrate its resolve to use nuclear weapons if it ever becomes necessary through a carefully formulated process of signaling and must enhance the quality of its warhead and missile technology. The steps necessary to fully operationalise India's nuclear deterrence must not only be taken early, but must also be publicly seen to have been taken – within the bounds of security of information and materials.

The author identifies and challenges the four tacit assumptions behind the lack of seriousness in operationalising India's nuclear forces: that deterrence credibility can be established through technological demonstration; that nuclear force operations are largely a technical matter; that transition from general to immediate deterrence through alerting is not a very demanding exercise; and that force survivability is not a critical issue. He also mentions a fifth one: in a crunch situation the US will be there to call upon. He goes on to successfully demolish all of them through the force of logic.

Admiral Koithara focuses a sharp lens on the systemic weaknesses plaguing the management of India's nuclear deterrence. He has stated that inadequacies in the management of nuclear forces have degraded India's deterrence, "Not just by the inability to conduct operations in a safe and reliable manner, but also by revealing a lack of seriousness of purpose." He bemoans the fact that the armed forces have been kept away from functional involvement in managing deterrence and asserts that, "Nuclear forces of every NWS are... closely controlled by the national leadership. But in every one of those countries, except India, these forces are managed by the armed forces under the supervision of the political leadership." He points out that the command and control structure is patently flawed where even the Defence Minister is a peripheral figure in nuclear decision making. He recommends a return to the erstwhile Defence Committee of the Cabinet with the three Chiefs as permanent invitees.

India still does not have a Chief of Defence Staff to provide 'single point military advice' to the Prime Minister. The three Services Chiefs are members of the Executive Council of the Nuclear Command Authority (NCA) headed by the NSA and not of the

Political Council of the NCA headed by the Prime Minister. As such, their inputs would reach the PM only indirectly in a moment of crisis. This system of isolation of the three Chiefs is unsuitable for long term nuclear planning. Though India has a Strategic Forces Command (SFC) for managing its nuclear forces, the C-in-C SFC reports directly to the NSA in practice and keeps the Chairman CoSC informed. Also, India does not have full fledged nuclear planning staff like Pakistan's Strategic Plans Division and nuclear planning is not seamlessly integrated across the ministries and the departments. The author writes, "Using inadequately prepared nuclear forces to generate deterrence will be similar to the inadequately-supported forward policy that India had adopted along the Tibet border in 1959.

This remarkable book would have been much richer if the author had taken stock of Pakistan's unbridled race for additional fissile material beyond its legitimate needs and its quest to acquire tactical nuclear weapons like the 60-kilometres range Hatf 9 (Nasr) missile, which is inherently destabilising, and its efforts to tip its cruise missile Babur with nuclear warheads. The lack of serious confidence building and risk reduction measures between the two countries has also not been covered, nor has India's long standing support for total disarmament been addressed. However, no book can cover the entire nuclear landscape.

This book deserves to be read by all personnel of the armed forces, particularly the senior officers. It must be prescribed reading for the Higher Command courses of the three Services. It must also be read by the political leaders, scientists and bureaucrats or technocrats who are involved in national security decision making and managing India's nuclear forces.

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Reviewing India-Afghanistan Partnership

- ***Nitin Gokhale***

The implementation of the India-Afghanistan Strategic Partnership, signed more than a year ago, is all set to gather momentum in coming months in the wake of a successful India visit by Afghanistan's President, Hamid Karzai, earlier this year.

While Karzai, who first flew to Mumbai, before coming to New Delhi for more formal discussions with Government leaders, was more focused on wooing Indian investors, the most concrete outcome of his four-day visit was the finalisation of a detailed training programme for the Afghan security forces in Indian training institutions.

Under the pact, which was under discussion for almost a year, India has agreed to train upto 600 Afghan Army officers every year in India. India, which has the world's third-largest army, will train, equip and build the capacity of the Afghan forces.

Sources in the Indian security establishment familiar with the contours of the detailed schedule say Kabul and New Delhi have identified three areas to focus on - increasing the intake of officers in India's premier training institutes; providing specialized training to the middle and higher level officers already operating in the Afghan National Army (ANA); and training soldiers in counter-insurgency and counter-terrorist operations.

Over 200 Afghan cadets will be training at the National Defence Academy, the Officers' Training Academies and the Indian Military Academy every year. This is over and above the 600 serving Afghan National Army (ANA) officers who will undergo a variety of courses.

In addition, company level (100-strong) contingents of the ANA will be trained for four weeks at the Counter Insurgency and Jungle Warfare School (CIJWS) located at Vairangte in Mizoram.

India, however, has no plans to send or deploy its troops in Afghanistan as of now.

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"India is a great destination for us, for the training of our military, for the training of our police and for the provision of equipment that India can provide, that is, within the means of India. We are certain that proximity that we have, the centuries of civilizational links that we have, makes it easy for Afghan young officers – men or women - to come to India and get the best from here. That will be a great contribution in bringing the Afghan Army and police to an institutionalized order which is of the highest importance for us," Karzai told Amitabh Revi, my colleague at NDTV in an interview just before departing for Kabul on Tuesday.

New Delhi has also decided to supply vehicles, information technology and sports equipment, a move seen as a paradigm shift in India's approach to Afghanistan.

So far, India has concentrated on using "soft power" in the development sector, such as helping with the building of roads, hospitals and even the parliament building in Afghanistan. But by offering extensive training facilities to the ANA, India has decided to ramp up its involvement, although it's currently stopping short of supplying any military hardware. New Delhi has also decided not to send training teams to Afghanistan in view of the two attacks on its embassy in Kabul.

The Indian security and strategic establishment has been wary of discussing the Indo-Afghan military-to-military relationship, not least because of Islamabad's sensitivities. Pakistan sees the growing relationship between New Delhi and Kabul as denying "strategic depth" to its army, and as an Indian attempt to encircle Pakistan. India has been central to Afghanistan's quest to rebuild its economy. Since 2002, India has contributed over $ 2 billion in aid.

In the last week of June this year, New Delhi had hosted an investors' conference that focused on inviting companies and businessmen to invest in Afghanistan. It was a first for New Delhi.

At the investors' conference those thoughts appeared far from everyone's mind. Organized jointly by the Ministry of External Affairs and the Confederation of Indian Industry (CII), the conference attracted private investors from over 40 countries. The Afghans were also present in strength. Five senior ministers handling mining, commerce and finance were in attendance. And they went out of their way to assure potential investors. As Anwar-ul-Haq Ahady, Afghanistan's commerce minister said: "When you take into account the high level of risk, the return on investing in Afghanistan is much greater than most other parts of the world … Your investment will not only benefit you and your employees but also create conditions that will promote peace and stability in Afghanistan and the wider region."

Although it's early days yet to judge if the Delhi conference resulted in any substantial commitments from private companies, CII and Afghanistan officials are hoping that the companies would have gotten a fair idea about the business opportunities that exist in the war-ravaged country.

That time Afghan officials listed several measures to woo investors. They also said that the government had adopted an investor-friendly foreign-exchange system and allowed banks to open foreign-exchange accounts. "We have also permitted 100 per cent foreign ownership of enterprises and easy repatriation of profits," one official said.

India's then foreign minister, S.M. Krishna, pointed out what lies ahead. "We visualize Afghanistan's mineral resources, agricultural products and human resources as possible drivers of growth and regional economic development that together with the energy resources of Central Asia, Iran and the Gulf, the growing economic prowess and markets of China, Russia, Turkey and India, could knit the entire region between Turkey in the west, Russia in the north, China in the east, and the Arabian Sea and the Indian Ocean in the south, in a web of trade, transit and energy routes and economic

cooperation. This vision requires international support in the form of institutional finance and foreign investment," he told the conference participants.

This time too, Karzai's delegation was more forthcoming on allowing India and Indian companies to mine Afghanistan's vast natural resources. Indian companies are planning to invest over $ 11 billion in the mining sector over the long term in Afghanistan.

The Afghan President, however, admitted that the security situation is still fragile and attacks by the Taliban would continue post 2014. But he said that there was no chance of the Taliban grabbing power in Afghanistan again.

"I don't visualise that happening because Afghanistan has advanced... revolutionised massively. There are, as I said, thousands and thousands of Afghans youth who have returned from education abroad and there are tens of thousands who are educating themselves in south Afghanistan. These big cities of Afghanistan have been transformed like never before. We have built more roads and more reconstruction and development has taken place in Afghanistan, in the past 10 years, than in the whole of our history. So, an obscurantist mindset's return to Afghanistan to take power is absolutely a thing of the past and will not happen. A sense of insecurity will still continue. There will be bomb blasts, there will be incidents like that, that we have in our whole region. But that will not be a hindrance to the progress of Afghanistan or to the continuation of the democratic rule in Afghanistan," Karzai said.

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Karzai also met Prime Minister Manmohan Singh. The two leaders reviewed progress in the implementation of the Strategic Partnership Agreement during the past year. The Indian government also cleared another tranche of development aid to the tune of Rs. 540 crore to be given to the war-torn country where such help has

earlier directly benefited the local communities.

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Grandma's Remedies For Governance Issues

- ***Dr M N Buch***

I was a stripling short of twenty-three years when I joined as Assistant Collector at Morena, after completing my training at the IAS Training School at Metcalfe House. Morena can be frightfully hot in the summer and my training required almost constant exposure to the sun. I developed a bad attack of prickly heat, which turned into an infection which spread through the hair roots and caused me to burst out in painful rashes. I was referred to the Medical College, Gwalior, where I was diagnosed as having a fungal infection for which the doctors prescribed medicines and subjected me to a course of superficial X-ray therapy. This only aggravated my problem, caused my hair to drop out and my skin to become brittle. So much for modern medicine.

One weekend, I came to Delhi to visit my mother, who saw my condition and advised me to meet an old family friend, a somewhat irascible colonel who had retired from the Indian Medical Service. Col. Kataria was an old fashioned doctor, a wonderful clinician who first diagnosed a disease and only then gave medicine. He had one look at me and wanted to know what I had done to myself. When I told him about the course of treatment I had undergone he shouted that the doctors who treated me were butchers, I did not have any fungal infection but had a relatively simple infection called seborrhoeic dermatitis, which is simply an aggravated form of prickly heat which affects the sebaceous glands. He gave me a cetrimide based shampoo, a lotion consisting of castor oil and lavender oil and an ointment which had both menthol and salicylic acid, which is the main ingredient of aspirin and told me to use these for one week. By the third day the infection began to recede and within one week I was fully cured. The sequence to this was in my next Sub division, Kannod. In the wild and woolly Bagli Tehsil of the Subdivision we

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had a doctor in charge of the primary health centre, called Dr. Joseph, who hailed from Kerala. When I told him my story he said that if I wanted to avoid any skin infection in the future I should prepare a decoction by boiling a handful of neem leaves, add a mug full to a bucket of water and bathe with it. I followed his advice and, touch wood, have never had a skin problem. I bless Dr. Kataria and Dr. Joseph for curing me with remedies which were virtually herbal. Unfortunately, they could not restore the hair I had lost, thanks to the doctors at Gwalior.

It is the objective of every government to govern, that is, to control and direct the affairs of the country and for this purpose to deliver to the people that which would promote their welfare. Even the worst of dictators has not disagreed with this definition of government because I have yet to come across a dictator who states that he does not desire the welfare of the people.

One can wonder why I am telling stories about myself and referring to grandma's recipes in an article aimed at addressing the extremely important issue of governance. Well, sometimes parables and fables convey a far more serious message than scholarly studies and long orations based on theories of politics and the philosophy of government. In other words, in the field of government there is room for grandma's remedies, or tried and tested methods of administration. This paper attempts to explore these old, reliable systems to see whether we can find solutions for the myriad problems of governance we are facing.

It is the objective of every government to govern, that is, to control and direct the affairs of the country and for this purpose to deliver to the people that which would promote their welfare. Even the worst of dictators has not disagreed with this definition of government because I have yet to come across a dictator who states that he does not desire the welfare of the people. The difference between good government and bad government is a differential view of what constitutes welfare, but on paper at least the objective is to make the country strong, to give people pride, to make people prosperous. When Hitler destroyed the Weimar Republic, this is precisely the agenda he placed before the German people and won their confidence adequately to win an

election and come to power. What followed is perhaps the most unimaginable of horror stories in the history of the world, but the stated objective still remained the good of the people.

Let us return to India and see the situation here. I refer to the period from when the British took control of this country right up to the present day, when we became an independent, democratic republic. British rule (I refer here to the post 1857 direct rule of the British Government) was based on an understanding that India was a society of laws. British rule was designed to perpetuate, imperial power in India, but the manner of governance was law based and not arbitrary. Therefore, even during the independence movement, the British were responsible for maintaining the empire, but always through laws, the enforcement of which also was according to law. Unlike the Gestapo and the Kampetai, the police did not have the power of arbitrary arrest and arbitrary sentencing. The police could not hold anyone in custody for more than twenty-four hours without producing him before a Magistrate and the power for dispensing justice lay with Magistrates, Judges and the High Courts and Federal Court, which were not subordinate to the Executive from the sessions court level upwards. The Magistracy and the Police had the same powers then as they have today under the Police Act and the Code of Criminal Procedure in the maintenance of public order and the prevention of offences. The Thanedar and Tehsildar of British days virtually operated under the same laws as we do today, but they were much more effective in ensuring that society remained orderly and crime was controlled and prosecuted. In the matter of law and order, every public servant knew where his duty lay and public disorder was dealt with sternly. No officer looked over his shoulder to find out what was expected of him by his official and political masters. If there was a situation to be dealt with the officer on the spot attended to this in the full confidence that he would be supported for his actions. This spilled over into the first twenty years of independence also.

Let me give a few examples. Ambah Tehsil of Morena District had a Tehsildar, P.N. Vats, an outstanding officer by any reckoning. Ambah was one of the worst dacoity affected Tehsils in the whole of India, with many of

the gangs being created by issues relating to land disputes. Vats expedited hearing of revenue cases, he was a virtual scourge for his Patwaris if they failed in their duty to maintain land records properly and he was extremely pro active in dealing with any case in which land was a bone of contention. He not only brought down pendency of litigation; his activist role actually brought peace to the Tehsil and drastically reduced the incidence of dacoity. He did not wait for orders from his Collector and he certainly did not heed or tolerate any undue political interference in his work. What he wanted was to be effective as an officer and provide good government to Ambah.

The second case is of Inspector Bitta Singh, who was Circle Inspector at Sheopur, then a sub-division of Morena. An extremely ugly dispute broke out over a temple and a mosque and the Hindu Mahasabha was up in arms against the Muslims. The situation was extremely volatile and could have resulted in a major communal riot, which would have spread to the entire region. This outstanding police officer, without waiting for orders from anyone, immediately intervened, arrested those who were trying to foment trouble, launched aggressive patrolling by the police and created an environment in which wrongdoers trembled, peace was maintained and there was no communal riot. The District Magistrate and the Superintendent of Police also played their role by fully supporting the man on the spot, with the administration at the sub-division level achieving something which today several battalions of armed police are unable to do.

The third case is of Sub-Inspector Maluk Singh, who was the Station Officer of the police station at Nagda. Nagda has a large industrial establishment based on GRASIM. There was trade union militancy which, unfortunately, was fragmented. Suddenly trouble flared up and before the district administration could be fully aware of what was going on the situation became really incendiary in Nagda. Maluk Singh did not have a large force available to him but he suddenly grew ten feet tall and by legal action, threat, persuasion and every other means which lay within law he was able to bring warring factions together, put the fear of God into them, force the management and workers to sit together for a

negotiated settlement and he achieved within two days what today massive government intervention cannot do. Peace was maintained at Nagda because of the initiative of this fine young police officer. I am mentioning these three cases because I am witness to what happened both in Morena and in Ujjain, in the former as Assistant Collector under training and in the latter as Collector and District Magistrate. If the man on the spot is trusted and is empowered to act, there is no situation in India which cannot be tackled.

There being continuity between the Government of India Act 1935 and the Constitution of India, the only real change which has come about between how the British governed us and how we govern ourselves is that under Government of India Act we were a limited democracy whereas under the Indian Constitution we are a fully democratic republic.

There being continuity between the Government of India Act 1935 and the Constitution of India, the only real change which has come about between how the British governed us and how we govern ourselves is that under Government of India Act we were a limited democracy whereas under the Indian Constitution we are a fully democratic republic. In a democracy it is not the bureaucracy which rules but rather the elected representatives of the people who, as members of the Council of Ministers, take the policy decisions relating to government. Nevertheless we continue the old system where the Head of State exercises executive power through officers subordinate to him, the said powers being exercised on the aid and advice of the Council of Ministers. This, however, does not in any way change the old position about India being a country of laws, in which the laws are framed by the legislators but are implemented, within the policy approved by the Council of Ministers, by officers appointed by the President or the Governor as the case may be. The law vests certain powers in officers and these officers are required to exercise their powers freely, fairly, without interference and in accordance with the law. For example, Chapter X of Cr.P.C authorises an Executive Magistrate or a police officer to command an unlawful assembly to disperse and on its failure to do so, to take such necessary action to

disperse it as may be called for, including the use of force, even lethal force. The Code of Criminal Procedure does not say that in exercising this power the Executive Magistrate or the police officer will seek the permission of a politician, a superior officer, or any other authority. He has the power, he is required to maintain order; he must ensure that there is public peace and, therefore, he is both free and duty bound to take all necessary action to maintain order.

How does the system actually work? In Bombay the Shiv Sena decides what is lawful and what is unlawful and the police station stands by as a spectator. Every riot is an offence and every mob which indulges in rioting is an unlawful assembly. When communal violence occurs why do police officers not take action as they are authorised to do by the Code of Criminal Procedure? It is not for want of legal authority but rather because the exercise of legal authority is now almost out of fashion. Every police officer, every magistrate knows that if he does take action he will not necessarily be supported, the press will probably come out with a biased view and political pressure will result in action against the officer rather than support for him. Therefore, Magistrates and police officer just do not act because in India acts of omission are still not really punished. It is now very rare to find a Bitta Singh or a Maluk Singh. Instead one finds officers of the type who now man the Maharashtra Police and allow Shiv Sainiks to disrupt peace, but will not do their duty to prevent this in the interest of the citizen at large.

The Code of Criminal Procedure does not say that in exercising this power the Executive Magistrate or the police officer will seek the permission of a politician, a superior officer, or any other authority. He has the power, he is required to maintain order; he must ensure that there is public peace and, therefore, he is both free and duty bound to take all necessary action to maintain order.

Law and order is only one aspect of government and at the top end of the administrative pyramid we have the Council of Ministers and the Secretaries to Government who are required to take decisions within the overall umbrella of the Rules of Business of the Executive Government. In Madhya Pradesh, for example, there are the Business Allocation Rules which allocate business between

different departments and then there are the Rules of Business of the Executive Government whereby the Governor ordains how the business of government will be conducted. For example, in Madhya Pradesh, there are three categories of cases: those cases which are to be brought before the Council of Ministers, those cases in which before final orders are issued by a department the matter will be submitted in coordination to the Chief Minister, and those cases which a department is competent to finally dispose of. Under Part V of the Rules of Business there is a procedure laid down whereby a Secretary or a Minister may dispose of a case. A Secretary is permitted to dispose of every case which is of a routine nature, or on which the question of policy has already been settled, as also of matters which the Chief Minister or the Minister in charge direct the Secretary to finally decide. In other words, in a matter in which there is no issue of policy involved, the Secretaries are fully empowered to dispose of the case. Unfortunately no Secretary now exercises this power and instead even minor, routine matters are put up before the Minister. Administratively, therefore, there is a form of paralysis in the higher echelons. As was amply proved in the 2G Spectrum allocation case and as is provided by Rule 48 of the Rules of Business of Madhya Pradesh, the Secretary of the Department is personally responsible for careful observance of the rules. This means that if there is a material departure from rules by anyone, including the Minister, the Secretary to the Government is responsible to ensure that the matter is brought to the notice of the Minister concerned and, where necessary, to submit the case in coordination so that the Prime Minister or the Chief Minister may be made aware of the deviation and give necessary instructions on the final disposal of the case. The question is, how many Secretaries do actually dispose of cases finally and how many Secretaries have the guts to put up a case in Coordination because the Minister and the Secretary do not agree on how other matter should be decided.

There is corruption. Corruption is a criminal offence and under the Code of Criminal Procedure, criminal offences shall be investigated by the police. Under section 154, the citizen is required to report the alleged commission of an offence to the police, which is required to treat this as the First

Information about the crime and to record it in the specially prescribed FIR book. Once the FIR is recorded, then under section 156 Cr.P.C. the officer in charge of a police station is bound to investigate the case and to do this he neither needs permission nor is authorised to abjure investigation. The wording of section 154 and other provisions of Chapter XII are very clear. The police officer is bound to record a FIR, he is bound to investigate an offence, his investigation cannot be interfered by any authority, he must submit a challan to the court if there is a prima facie case and if no prima facie case is made out he is bound to report the matter to the court and obtain permission to close the case. For this, he does not need anyone's permission, nor can anyone either force him to investigate or refrain from investigating fully or in part. Here is the ultimate grandma's remedy, contained in the Police Act which dates back to 1861 and the Code of Criminal Procedure which is only a modification of the Code of 1898. The power of the police to investigate is the same in 2012 as it was in 1898. Why, then, do we keep receiving complaints that the police does not act?

The most notorious police force in India is the CBI, which legally has no existence and whose legal avatar is the Delhi Special Police Establishment (DSPE). This force is notorious for acting with political bias, for holding preliminary enquiries prior to registration of the FIR and for acting in fits and starts in eminent cases according to what the political masters dictate. But this is not the scheme of policing in India and, therefore, what we need is not new Police Acts or new police arrangements but rather a reminder to the police that the existing law is complete in itself. It fully empowers the police and the police should not act as handmaidens of individual politicians but rather go back to the old practice of policing according to the law.

In every aspect of governance, the right way is already prescribed and we do not need new laws in this behalf. For example, tender procedures are fully prescribed in existing PWD manuals. Despite this officers quite often bypass tender procedures, either under pressure of money or the pressure of politics and this has always resulted in cost overruns, poor quality work, non adherence to schedule and generally

unsatisfactory execution of the sanctioned work. Why do we need new laws here? What we need is a firm decision both by the government and the officers concerned that they will not deviate from established norms, or the established rules. For example, The Directorate of Town and Country Planning will not change land use except by due process, for good reason and within the overall scheme of the Development Plan of the city. This does not call for new rules, it calls for the personal integrity and morality of the officer concerned who deals with a situation according to rules and laws and does not succumb to any blandishment or threat or pressure from his superiors. Is that too much to expect?

I am not suggesting that radical surgery or fourth generation drugs should never be resorted to. But if an old fashioned carminative mixture relieves a stomach ache, why should there by resort to expensive antibiotics? Why go to anti allergens and cortico-steroids to deal with an insect bite when in the garden itself there are plants a poultice of which will be enough to deal with the toxic effect of that bite? If by educating officers on what their legal powers are and then encouraging them to take suitable action we can provide good government to this country, why do we need Kejriwal and Prashant Bhushan's remedies? I would only end by saying that what we need in this country is that officials at every level begin to be aware of their legal powers, the mandate given to them by government and the expectations of the people regarding what government will deliver. We need to empower our officials by assuring them that if they operate within what they are authorised to do, they will be fully supported, if they do not do their duty they will be punished and if they take decisions at the behest of others they will be removed from service. Once this happens and the bureaucracy begins to function effectively all the old remedies of grandmother will flood back and the administration will return to a level of efficiency which it enjoyed in the past. It is then and then alone that we should assess what reforms are needed to carry government to the next level of administrative elevation and for this purpose reform the present structure of government and the network of laws.

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CAG And The Indian Constitution

- ***Prof. Makkhan Lal***

In India, it has become customary to abuse the Constitution and/or Constitutional Authority whenever a political party or a political leader is in trouble for their misdeeds. Let us not forget that this began with Jawaharlal Nehru himself and also that the very first constitutional amendment bill was introduced in the Parliament on 12th May 1951 (six months after the death of Sardar Patel) when Part III of the Constitution, dealing with the Fundamental Rights, came in the way of certain ill-conceived and ill-timed actions of the then Government. The ultimate abuse of the Constitutional provisions was reflected in the imposition of Emergency on 26th June 1975. Even the most diehard supporters and part of the then regime had this to say:

B.K. Nehru (then High Commissioner to London and Mrs. Indira Gandhi's cousin): "Jawaharlal Nehru and Shastri 'knew what a constitution was… [its] checks and balances.' But Indira Gandhi 'in the effort to have a populist image…went on the concept of committed democracy, committed judiciary'."[1]

Romesh Thapar (for long, along with his wife Raj Thapar, a member of Mrs. Gandhi's Kitchen Cabinet): "The suspension of democracy 'was the culmination of a process of manipulative politics set in motion many years earlier, and very often the handiwork of supposedly democratic men."[2]

We need not go on discussing the reasons for imposing the Emergency and converting the country into a Middle-Ages European fiefdom. But we need to remember what politicians do when they are in trouble on account of their misdeeds, corruption, and so on.

What we have witnessed in the last three years (more precisely in the regime of UPA-II) is a large number of scams committed not by a Harshad Mehta or a Natwar Lal, but by the very same people who have been appointed to be its

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custodians.

Commonwealth Games loot, 2G Scam, Coal Mines allotments, and Gas fields' allotments are just the tip of the iceberg. Let us remember that these scams have not been brought out by investigative journalist like in the 1970s and 1980s but by the Government's own watch-dog – the Comptroller and Auditor General – having been given the constitutional mandate to keep an eye on the Government's functioning concerning financial matters.

Once the Government was on the mat, its minions started the cacophony – CAG is an agent of the opposition, it has no right to question the Government, it has no jurisdiction over the matter and indeed the CAG is incompetent and unqualified. These minions forget that the present CAG, Mr. Vinod Rai, is one of the most outstanding and upright officers of this country. The CAG's expertise is globally recognized. It has been appointed as external auditor for the International Atomic Energy Agency, World Health Organisation, World Intellectual Property Organisation and several more such institutions based on open bids against competition from Sweden, Germany, France and the UK. We must appreciate that the CAG of India did not win solely on cost but also on technical considerations. Many of its bids were not the lowest.

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Worst still for the critics, Mr. Vinod Rai, the CAG, was chosen and appointed by the very same Government which is in power today. But the insinuations and allegations have taken a serious turn and need to be taken note of, especially when they emanate from the Cabinet and the State Ministers of the Government.

Having being exposed in scams of several lakhs of Crores (it may not be possible even for a highly

educated person to write these figures in digits), they have started propagating the argument that a one-member CAG is not good enough and it needs to be transformed into a multi-member body. For this, they cite the example of the Election Commission.

In order to confuse and convince the laity, it is being argued that, like the Election Commission, the CAG must also be made a multi-member body. It appears very fine, attractive and convincing. But we must assess as to what the Constitutional provisions are. The provisions of the Election Commission are dealt with in the Constitution in Article 324. Articles 324(2) and 324(3) read as follows:

Article 324(2). The Election Commission shall consist of the Chief Election Commissioner and such number of other Election Commissioners, if any, as the President may from time to time fix and the appointment of the Chief Election Commissioner and other Election Commissioners shall, subject to the provisions of any law made on that behalf by the Parliament, be made by the President.

Article 324(3). When any other Election Commissioner is so appointed, the Chief Election Commissioner shall act as the Chairman of the Election Commission.

It can be seen that our Constitution makers had provided for a single-member or a multi-member Election Commission and indeed who shall be head of this body in case it is multi-member. Thus, the Government was within its Constitutional rights when, on 16th October 1989, it appointed two additional Election Commissioners thinking that it will clip the wings of the then Chief Election Commissioner, Mr. T.N. Seshan. It is another matter that today politicians have come to fear it as the Sword of Damocles – be it only for a brief period.

However, the Constitution has dealt with the Comptroller and Auditor General on a very different plane. It must be mentioned here that there was an independent Auditor General even before Independence and it was given an independent status even in the Government of India Act of 1935. The CAG is dealt with in Article 148 (Chapter V) of the Constitution of India. Some of its provisions are:

Article 148 (Comptroller and Auditor-General of India)

(1) There shall be a Comptroller and Auditor-General of India who shall be appointed by the President by warrant under his hand and seal and shall only be removed from office in like manner and on the like grounds as a Judge of the Supreme Court.

(4) The Comptroller and Auditor-General shall not be eligible for further office either under the Government of India or under the Government of any State after he has ceased to hold his office.

(6) The administrative expenses of the office of the Comptroller and Auditor-General, including all salaries, allowances and pensions payable to or in respect of persons serving in that office, shall be charged upon the Consolidated Fund of India.

Article 149 (Duties and powers of the Comptroller and Auditor-General)

The Comptroller and Auditor-General shall perform such duties and exercise such powers in relation to the accounts of the Union and of the States and of any other authority or body as may be prescribed by or under any law made by Parliament and, until provision in that behalf is so made, shall perform such duties and exercise such powers in relation to the accounts of the Union and of the States as were conferred on or exercisable by the Auditor-General of India immediately before the commencement of this Constitution in relation to the accounts of the Dominion of India and of the Provinces respectively.

Article 151 (Audit reports)

1. The reports of the Comptroller and Auditor-General of India relating to the accounts of the Union shall be submitted to the President, who shall cause them to be laid before each House of Parliament.

2. The report of the Comptroller and Auditor-General of India relating to the accounts of a State shall be submitted to the Governor of the State, who shall cause them to be laid before the Legislature of the State.

From the above following points are crystal clear from the Constitution point of view:[3]

1. The use of expression that **"There shall be a Comptroller and**

Auditor-General of India" clearly shows that the founding fathers of our Constitution had envisaged CAG as a single person Constitutional Authority and not a Commission.

2. CAG is appointed by the President of India as per the provisions of the Constitution of India and can be removed only in the manner and on like grounds as a Supreme Court Judge.
3. CAG is not an employee/officer of the Government of India. It is a Constitutional Authority and is answerable to the Parliament and the President of India.
4. It is the duty of the CAG to audit the Government accounts (including the accounts of the state governments) in India to audit all expenditure from the revenues of the union or state governments, whether incurred within India or outside. Specifically, audits include transactions relating to debt, deposits, remittances, trading, and manufacturing, profit and loss accounts, and balance sheets kept under the order of the President of India or the Governors of States. These were exactly the duties and powers defined also in the Government of India Act, 1935.
5. In order to save the CAG from any pressure from any quarter, the CAG is not allowed to hold any office after retirement and also all its expenses are met from the Consolidated Fund of India.

The Article(s) dealing with the Comptroller and Auditor General in the Constitution were debated and discussed threadbare.[4] T.T. Krishnamachari, Biswanath Das, K.T. Shah, H.N. Kunzru, and P.S. Deshmukh were among those who participated in the debate and moved amendments. Replying to the debate and amendments moved by the members of the

Constituent Assembly Dr. B.R. Ambedkar, Chairman of the Drafting Committee, said:

"… (this) dignitary or officer is probably the most important officer in the Constitution of India. He is the man who is going to see that expenses voted by Parliament are not exceeded, or varied from what has been laid down by Parliament in what is called the Appropriation Act. If this functionary is to carry out the duties – and his duties, I submit, are far more important than the duties of even of the judiciary – he should have been certainly as independent as the Judiciary. But, comparing the Article about the Supreme Court and the article relating to the Auditor-General, I cannot help saying that we have not been giving the same independence which we have given to the judiciary, although, I personally feel that he ought to have far greater independence than the judiciary itself."[5]

It was unthinkable in the olden days to criticize the CAG, to say nothing of attributing motives and hurling invectives. While speaking about the CAG, Jawaharlal Nehru said in the Parliament:

"For the CAG to be criticized on the floor of the House would tend to undermine his special position under the Constitution and would make it difficult for him to discharge his duties without fear or favour".

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"For the CAG to be criticized on the floor of the House would tend to undermine his special position under the Constitution and would make it difficult for him to discharge his duties without fear or favour".

It is not for no reason that the Supreme Court recently expressed its anguish in the following words:

"CAG is not a *munimji* or an accountant or something like that... He is a constitutional authority who can examine the revenue allocation and matters relating to the economy. CAG is the principal auditor whose function is to go into the economy, effectiveness and efficiency of the use of resources by the government. If the CAG will not do, then who else will do it"

It is now time that people in general take note of such utterances against the Constitutional Authorities and take appropriate measures to safeguard the Constitution.

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4. For details see Constituent *Assembly Debate,* Vol. VIII, pp. 403-415; Dr. S.C. Kashyap, 2004 (Second Revised Edition), *The Framing of India's Constitution: A Study,* New Delhi. Pp. 412-17.
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6. Observation of a bench of Supreme Court of India while dismissing a petition challenging CAG reports on 2G spectrum, Coalgate, etc.

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JPCs Must Have The Power To Summon Ministers

- ***A Surya Prakash***

Archaic rules and deep divisions along political lines within the Joint Parliamentary Committee (JPC) probing the controversial 2G Spectrum sale have affected the efficacy and sanctity of parliamentary investigations. While the controversy over the committee's right to summon ministers has raised the question as to whether there is a need for a re-look at parliamentary practice and procedure, there can be no easy solutions to the problem posed by the political divide.

The rules that govern the working of the Lok Sabha and the Rajya Sabha, which were constituted 60 years ago, have largely been taken from the British Parliament. Over the years, some changes have been made keeping in mind the Indian ethos, the peculiarity of representational politics and the demands that constituents make on their MPs in this country. However, these changes have been ad-hoc. There has never been a comprehensive review of parliamentary practices. As a result, many rules that came into the book decades ago, still dictate the way things are done, although much has changed in the world over these years.

For example, the rules governing the working of the parliamentary committees do not permit them to summon the Prime Minister. Even the summoning of ministers is not permitted. Some committees, however, have managed to record the evidence of ministers after obtaining special permission from the Speaker of the Lok Sabha. Given the times we live in, one would think that these are unwanted hurdles placed before committees. Since transparency and accountability are the buzz words in democracies around the world today, rules that bar parliamentary committees from summoning and questioning the Prime Minister or a member of his Cabinet, do not make much sense at all.

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It is this disjunction between archaic rules and contemporary democratic needs that is at the heart of the current conflict between the ruling and the opposition MPs within the JPC. Members belonging to the Bharatiya Janata Party (BJP), which is in the opposition, want ministers to be summoned, while MPs from the ruling Congress Party oppose the idea. The Congress view is articulated by the JPC's Chairman Mr. P.C. Chacko, who belongs to that party. He is of the view that the Prime Minister cannot be summoned by the JPC because "there is no precedent". But, would this not be a changeless world if we did nothing that had no precedent? The other problem is the political divide within the committee. The Congress Party's blind assertion of its majority in the JPC has put a question mark on the standing of the parliamentary committees and struck a blow against the semblance of non-partisanship that characterised the work of these committees in the past.

The argument against summoning ministers is also not well founded. Parliament has had several JPCs in the past and there have been two such joint committees which have summoned ministers. For example, in 1992, Parliament constituted a JPC to probe irregularities in securities and banking transactions. This committee, which was headed by Mr.Ram Niwas Mirdha, summoned many ministers and ex-ministers.

The argument against summoning ministers is also not well founded. Parliament has had several JPCs in the past and there have been two such joint committees which have summoned ministers. For example, in 1992, Parliament constituted a JPC to probe irregularities in securities and banking transactions. This committee, which was headed by Mr.Ram Niwas Mirdha, summoned many ministers and ex-ministers. It investigated irregularities and fraudulent manipulations in transactions relating to securities, shares, bonds and other financial instruments and the role of banks, stock exchanges, financial institutions and public sector undertakings in this scam. The committee also had to fix responsibility and to recommend safeguards to prevent such manipulation of the market in future. This JPC asked as many as ten ministers and ex-ministers to send in their responses to issues before the committee and this included Mr. Manmohan Singh

and Mr. B.Shankaranand, ministers at that time and Mr. V.P.Singh, former Prime Minister and several former ministers - Yashwant Sinha, S.P.Malaviya, Madhu Dandavate, Chinta Mohan, Madhavrao Scindia, N.D.Tewari and P.Chidambaram. The committee also asked the then Finance Minister, Manmohan Singh, and Health Minister B.Shankaranand to appear before it.

Again, in April 2001, Parliament appointed another JPC to probe yet another stock market scam. It was asked to investigate market manipulations in all its ramifications including insider trading and to examine the role of banks, stock exchanges, brokers and promoters and regulatory authorities. The committee was expected to fix responsibility on individuals (and institutions) who had manipulated the market. The committee was also asked to suggest deterrent measures to punish wrong doers. This committee, headed by Mr. Prakash Mani Tripathi, submitted its report in December, 2002. This committee too decided to seek written information from Mr. Jaswant Singh and Mr. Yashwant Sinha, who were then ministers for finance and external affairs. Thereafter, it felt that there were some points on which 'further clarification" was needed and called both the ministers to tender evidence before it. This JPC had also summoned two former Finance Ministers – Mr. Manmohan Singh and Mr. Chidambaram.

Interestingly, the terms of reference of both these JPCs said that they were to function within the ambit of the Lok Sabha's Rules of Procedure relating to the parliamentary committees, subject to the rider that "if the need arises" they could adopt a different procedure with the concurrence of the Speaker. When it comes to summoning ministers, an impediment that is often cited is Direction 99 of the Directions of the Speaker, which is applicable to Financial Committees. This prohibits committees from calling ministers either to give evidence or for consultation. However, these two JPCs overcame this hurdle by seeking the Speaker's permission to record the evidence of ministers.

This brings us to the question as to why the parliamentary rules impede the summoning of ministers. Obviously, these rules were written in another age and time when ideas like transparency

and accountability were unheard of. Should we persist with them in this day and age? Secondly, when the Constitution requires the Prime Minister to be responsible to the House of the People, why should he not be summoned by a committee of the Parliament?

The argument advanced by Mr. P.C. Chacko, Chairman of the JPC probing the 2G Spectrum Scam, that the decisions have to be taken in the committee on the basis of majority vote, is equally preposterous. Barring exceptions, parliamentary committees have always functioned in a non-partisan environment. If committees work on the majority-minority principle, independent parliamentary investigations will become impossible, because the ruling coalition or party always commands a majority in a committee of the parliament.

Over the years, because of the deterioration in the internal security environment, the Prime Minister is encircled by the Special Protection Group and completely cut off from the people. What these archaic rules of parliament are doing is to cut him off from the parliament as well. Similarly, one wonders why the Finance Minister or any other minister needs to be shielded from scrutiny.

Over the years, because of the deterioration in the internal security environment, the Prime Minister is encircled by the Special Protection Group and completely cut off from the people. What these archaic rules of parliament are doing is to cut him off from the parliament as well. Similarly, one wonders why the Finance Minister or any other minister needs to be shielded from scrutiny. Do they lack the gumption or the intellectual wherewithal to face a parliamentary committee and explain the decisions that they take? If indeed they lack the confidence, why do they continue in office? And, why should the parliamentary rules go to their rescue?

There is another good reason why the Prime Minister and other ministers must pick up courage to face parliamentary committees – the proceedings are in camera. In India, since the parliamentary committees work behind closed doors, away from the glare of publicity, there is no fear of the Prime Minister being subjected to cross examination under the harsh glare of television cameras. Even if that be so, why run away from it if

you are confident of the manner in which you run the government? When American presidential hopefuls have face-to-face debates on all issues affecting the people, why do we need rules and norms to shield our prime minister from our MPs?

The reluctance of Mr. Manmohan Singh and Mr. Chidambaram to face the JPC probing the 2G Spectrum Scam is inexplicable for yet another reason, namely that they are in a sense, JPC experts in this government, having tendered evidence before the JPCs constituted in 1992 and 2001. These two JPCs not only recorded the evidence of ex-ministers but also of ministers in the Union Government at that time. But, now both of them have developed cold feet.

In the light of this evidence, both the Prime Minister and the Finance Minister ought to have volunteered to appear before the present JPC, rather than hide behind some antiquated rules and even jeopardize the committee's working. But, we should not acquiesce in their reticence. The time has come from Parliament to take a fresh look at its rules and weed out all those provisions that militate against the principle of accountability.

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Special Laws To Counter Terrorism In India: A Reality Check

- ***Dr N Manoharan***

A National Convention held recently in New Delhi on 'Politics of Terror' has brought into focus the need to re-examine the provisions of special laws that are currently in use to counter terrorism. When confronted with armed militancy, democracies face what is known as the "democratic dilemma". On the one hand, they have to protect the territorial integrity, sovereignty and security of their people from the arbitrary violence by the militants; if they fail, their authority and credibility are undermined. On the other hand, in the process of combating militancy, if they slip into repression and authoritarianism, they end-up alienating the population and lose legitimacy. To maintain the equilibrium, the use of the legal framework, otherwise called the 'criminal justice model', is therefore suggested.

The use of special/security laws is justified on the grounds that the existing criminal laws are not adequate to deal with the militancy that is "well-armed, far more dangerous and modernised". Since what is at stake is not just law and order but the very existence of state and society, there is a need to have special laws with far higher deterrence value. Introduction of special laws is also justified citing the prevailing international environment and obligations as in the case of POTA after 9/11 attack and the UN Resolution 1373.

India has a long tradition of special/security laws dating back to its pre-Independence years. These laws have been enacted, repealed and re-enacted periodically since Independence. Such special laws fall under four categories:

1. Exclusive laws against terrorism like POTA.
2. Security forces empowerment laws that give immunity and additional special powers to the security forces like the

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Armed Forces Special Powers Act.

3. Laws of proscription that criminalises terrorist groups and a range of undesirable activities like the Unlawful Activities Prevention Act (UAPA).
4. Other exclusive laws on control of finances, money laundering, drug-trafficking, cyber warfare and so on.

However, the question that remains is how far these extra-ordinary laws have been successful in preventing, deterring and correcting militants and, in turn, enhance security. The answer is mixed. Some of the main reasons for the ineffectiveness of the special laws are as follows:

- Over-reaction to the threat posed and far more drastic measures than necessary
- Hasty enactment without giving much room for public debate or judicial scrutiny
- Overly broad and ambiguous definitions of terrorism and penal provisions that fail to satisfy the principle of legality
- Pretrial investigation and detention procedures that infringe due process and personal liberty. And the number of cases that finally end in convictions is low
- Lack of sufficient oversight mechanisms
- Space to settle political scores
- Weak witness protection provisions
- The provision of the use of special courts attracting undue political interference in the judicial process and maximizes potential bias.

Yet, this does not mean that the special laws are totally redundant. They serve the purpose if all the above identified issues are addressed. What is required is not "a new law for every new crime", but fewer and effective laws. The guiding principle should be, as William Ewart Gladstone observed, "Good laws make it easier to do right and harder to do wrong." An ideal legal framework should comprise three elements – prevention, deterrence, and rehabilitation – in right proportion. Presently, the Indian special laws are biased towards 'deterrence'. The proportion depends on the character of the militancy and the environment in which it is taking place. One size does not fit all. The framework should not fail to take into account human rights concerns. There

have to be proper safeguards against any misuse/abuse. To put in simple terms, as Lydia Maria Child observed, "Law is not law, if it violates the principles of eternal justice." There have to be some clear cut definitions of crimes and penal provisions to avoid excessive discretionary powers. Enactment of special laws should not be done in haste; for greater awareness and acceptance, the process has to be transparent and should be subject to public debate and judicial scrutiny.

What is also required is a political consensus on the issue at two levels: at the national level among all parties and between the Center and its federal units. Special laws should contain review mechanisms and 'sun-set' clauses for periodic assessments. "The law must be stable, but it must not stand still." Reforms in the criminal justice system – investigation, prosecution and adjudication – are the need of the hour. The role of civil society is vital in moderating the role of special laws in counter-terrorism. Media, especially, has to understand the aspect of the legal framework correctly, avoid sensationalism, educate people, and at the same time support the government of the day in its fight against terrorism.

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Vimarsha on "Transition in American and China: Implications for India"

On 27th November 2012, distinguished personalities assembled at the VIF auditorium to attend its monthly series of talks by eminent persons, Vimarsha. This month's Vimarsha talk was given by Amb. Prabhat P Shukla, former Ambassador to Russia, who is also the Joint Director of the VIF. Ambassador Shukla made a presentation on "Transition in America and China: Implications for India". The session began with a brief introduction from Mr. Ajit Doval, KC, Director of the VIF on the topic.

Transition in the US

Ambassador Shukla then began with the US elections, assessing some important data and figures, to analyze the 2012 US Presidential Elections. On the voter turnout, Ambassador Shukla referred to the drop of 5% in the total votes cast in the 2012 elections from the 2008 elections, despite an increase of 8 million in the number of eligible voters. This drop in the number of votes cast was largely due to the failure of the Republicans in "energizing their base" sufficiently and perhaps one of the reasons for their loss. Considering the demographics of the elections, Ambassador Shukla said that Obama won the elections with a much wider margin among African-Americans, single women and Hispanics. But he emphasized that as much as it was Obama's victory, it was the Republicans' weakness that played a role too: Romney and Ryan both failed to win their home states, a most unusual feature in Presidential races. Comments made by Republicans, like "pregnancy from rape is something God intended" by Richard Mourdock or that on "legitimate rape" by Todd Akin, ensured that women voters were put off the Republican platform. Women

happen to constitute 53% of the total voters in the 2012 elections. As far as the African-Americans and the Hispanics votes were concerned, there was a major sweep for the Democrats, as they won over 90% and 70% of their votes, respectively. Here, again, Ambassador Shukla mentioned the failure of the Republicans in generating their appeal among these races. He asserted that, had the Republicans appointed Condoleezza Rice, for example, as the Vice-Presidential candidate, it would have enhanced the party's image among women and the African-American voters.

Being the first US President since the Second World War to be re-elected with a lower margin in the Electoral College, Obama and the Democrats have not quite overcome what Obama called the "Shellacking" of 2010. Ambassador Shukla ended the first part of the presentation with a brief mention of Tulsi Gabbard, who will be the first Hindu to be elected to the US House of Representatives [from Hawaii] and will take her oath on the Bhagavad-Gita.

Transition in China

The second part of the presentation studied the main events of the 18th National Congress of the Communist Party of China (CPC). The 18th National Congress' PBSC include Xi Jinping, Li Keqiang, Zhang Dejiang, Yu Zhengsheng, Liu Yunshan, Wang Quishan, and Zhang Gaoli in that order of ranking. Ambassador Shukla described, in brief, their party positions and their likely state positions (to be finalized in March 2013 at the National Peoples' Congress).

Assessing Hu Jintao's position in the CPC, Ambassador Shukla highlighted the setbacks which Hu Jintao had recently faced. He pointed out that Hu Jintao had to vacate the post of the head of the Central Military Commission (CMC) and that Hu Jintao's closest aide, Ling Jihua, was removed as the head of the

general department of the CPC on the eve of the Congress, which was quite unusual. In making Ling Jihua the head of the United Front Work Department that deals with the Dalai Lama, nonetheless, Hu had placed a trusted aide to deal with an issue that he attaches importance to.The same goes for the 49-year old Hu Chunhua, who is the youngest member of the Politburo, and a likely sixth-generation leader in 2022. Hu Chunhua has served in Tibet for twenty years, speaks Tibetan and has been groomed by Hu Jintao to maintain, inter alia, a hard line on Tibet.

Ambassador Shukla also examined Hu Jintao's important references to the corruption issue, the need to restructure the economy, the need to "win a local war in an information age", as among the highlights of the Work Report. He also touched upon the reference to *Consultative Democracy,* a first in such a setting. Summing up the second part, Ambassador Shukla made an important remark that, even though the domestic political system has recently been declared a core issue, the social situation in China is precarious with over 180,000 reported incidents of major unrest in 2011 alone, asserting that "change is an ineluctable necessity".

Implications for India

In the final section of the presentation, Ambassador Shukla assessed the likely security, economic and political implications of these transitions on India. Beginning the section with study of the various economic dynamics in Asia, Ambassador Shukla tabulated the FDI figures and the direction of Merchandise Trade to highlight the important role played by the US in the economic success of China. The figures from 1995 to 2007 showed a remarkable increase in FDI in China and increasing exports from China into Europe and North America. Drawing parallels with the model of growth in Europe and then in Japan, he said that this FDI and export-based model of economic growth shows a remarkable increase at the beginning but

later the growth rate subdues, as happened with Europe and Japan. The Chinese model of economic growth too has reached its limits. This is why Hu Jintao himself described the model as "unbalanced, uncoordinated, and unsustainable".

The next argument that Ambassador Shukla dealt with was that that the US is heavily dependent on China economically. Disagreeing with this notion, he highlighted firstly that, while the holdings of the US national debt by Japan, Persian Gulf oil exporters and India has increased since 2011, the share of the US national debt held by China has dropped from $ 1.3 trillion to $ 1.1trillion. This adds up to just 6.85% of the US GDP.

In discussing the power play in the Asia-Pacific region, the speaker touched upon the expectations of a number of India's partners for India to play a greater role in the security of the region, particularly in the western Pacific. Ambassador Shukla argued that India would be justified in demanding reciprocal support from the US and the Asian allies on its security concerns vis-à-vis China and Pakistan. Afghanistan, as the Ambassador asserted, is going to be the next hotspot as the date for the withdrawal of the ISAF is nearing. China is likely to engage, as it has in the past, with the Taliban to try and humiliate the US as it plans to withdraw its troops.

In summing up, the speaker said that, with China, India has a serious unresolved border dispute, on which China has, till date, not shown any serious intent to move forward. On the other hand, with America, India has just one real conflict of interest, that being Pakistan. The US has the potential of being one of India's major strategic partners in the long run. This alone would call into question the validity of the doctrine of non-alignment being pressed by some in the face of the emergence of China. Ambassador Shukla suggested that the challenge for the Indian and the US governments is to develop a new platform for cooperation, which would address their differences and enable them to identify long-range plans for working together.

At the same time, Ambassador Shukla reminded the audience of

the importance of relations with Russia, France, Japan and Israel. Ambassador Shukla said that India holds a unique position of being in a position to bridge the gap between the US and Russia, as both the nations are equally important for us. Also mentioned was the importance of Iran for India, especially in the context of Afghanistan and India's role in its future stability.

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