

# **THE INDIAN CONSTITUTION AT** **2050**

The Constitution of India is a long legal parchment, solemn, sublime and secular, enacted in substantial fulfillment of the ethos and aspirations of the people of India. This Supreme Deed of Independent India bears true faith and allegiance to the tryst with its Swaraj destiny and journeys jurisprudentially towards Socialist, Secular, Democratic Destination. Some of the wisest jurists and statesmen and human rights sensitives were the collective architects of this unique achievement expressing their thoughts on the fundamentals of political supremacy, social philosophy and economic structure.

Every generation, with its cultural development, is a new nation in some measure and has its own challenges, changes and global value variances, some of them fundamental and others but frills and fripperies. Over the decades, dynamic desiderata, commanded by Indian and international developments, have led to well over ninety amendments to the Constitution. The vision and mission of our Founding Fathers are the implementation of the pledges and promises implicit in "Poorna Swaraj", which was secured by liberation from the British Empire by a do-or-die struggle waged with passion, by the people.

No nation nor the world, in its basic process, is static. Kinetic mutation is a constant phenomenon of living society or organism. Inevitably, the Indian Constitution too has responded to the world-wide pressures for social transformation. This is a perennial continuum which is cosmic in its operation. The Indian Constitution, like any other great Instrumentality reflecting the life of the people, will necessarily undergo macro-and-micro changes in its social philosophy, material structure and operational features.

What is truly Indian and Gandhian, conceptually integral to development, now forsaken and made alien, without realizing the cultural outrage, is the transformation of our moral-spiritual-temporal life-style tuned to the finer values and grammar of good, without surrender to the modern

materialistic craze, grabby greed and carnal perversity as our insatiable appetite. 'The purpose of development should not be to develop things but to develop Man' (Cocoyoc Declaration). Not concrete sky-scrapers, not five-star hotels, not flashy automobiles and frequent flights by aero-planes, not fleshy pleasure, nor alcoholic intoxication nor deleterious nuclear power can make India great but simplicity, socialist secular sincerity, sustainable austerity, progressive swadeshi, purity and ethics at home and in public, ethos of excellence, perennial energy from Nature without noxious fall-out waste to wealth, welcome to spirals of culture from everywhere and allergy to chaos in the cosmos. A sublime dimension of universality and divinity, is our heritage, not 'globalisation', marketisation, commoditization and privatization, pleasures, plunder of power, rob-others-to-enrich oneself culture and authoritarian behaviour. "No one can be perfectly free till all are free. No one can be perfectly moral till all are moral. No one can be perfectly happy till all are happy" (Spenser). This is the quintessence of our non-violent humanism and sharing-caring compassion towards all living creatures. Constitutional amendments, with radical daring, alone can ensure egalitarian work, wealth and happiness for the billion-odd Indian humans as against the few mushroom billionaires and maverick millionaires k who roll in opulence and rape the nation's resources while the common masses famish, starve or suicide. The Constitution which is the conscience of the whole nation, must, therefore, be so reformed, even revolutionized, as to make human rights of man, woman and child a living reality on earth, not a Constitutional illusion in print and court and official oath.

Indian unity and fraternity today suffers a syndrome of divisiveness, disparity and despair. The glory and greatness of India, its internal integrity, fraternal amity and cosmic comity, consists in its finest principles of spiritual- temporal unity and beauty which are our unique legacy, notwithstanding theological-ecclesiastical, racial, casteist diversity and cultural plurality. Alas! This vibrant value-set, with its divinity and humanity, has been vulgarly defiled by a new frenzy and savage distortion of extravagant religiosity and egregious terrorism. A profound moral-material

revolution by way of restoration of our jettisoned excellence is a constitutional urgency with a mandatory provision creating an effective enforcement agency. India is lost as a tragedy and travesty if communal felony wins. Bharat triumphs as a value wonder and moral marvel if 'We, the People of India' buy back the splendour of global vision which our ancients possessed generation after generation. Today, the dragon's teeth of hatred, disunity, carnivorous pachydermy have miasmatised our celestial tradition. A majestic comprehensive and instantly active code of fellowship by way of constitutional amendment is necessary to salvage our land as a sanctuary of cosmic amity and social justice.

The most fiendish enemy of societal safety, stability, serenity and sublimity of India to-day is savage terrorism, compounded by bloodthirsty barbarity. Be he Hindu, Muslim, Christian or atheist, he is Indian first, all else next. Spiritual convictions need not and shall not contradict nationalism in its noble norms. Right now, not a day later, we must un-mincingly amend the Constitution to make terrorism in any shape or form, a grievous crime, a treasonable violence. Any citizen shall have access to approach the highest judiciary direct to exterminate this abominable diabolism.

I have a dazzling dream, nay, a vibrant vision and Gangetic mission, inspired by a profound motivation that India will be a rare paradigm of socialist secular democratic Republic. So long as our politicians are artists of duplicity and ballotry there is no hope of change. People's expectation has darkened into despair Bitterness midwives Naxalites, the killer bullet being a surer project than the camouflage ballot. If the gun is to go silent, fundamental duties must be the rule of life, not 'words, words, words'.

Communalism is the enemy of secularism which is a structural fundamental of constitutionalism. Unfortunately, the protection given to minorities is being travestied into a perversity by a grave misconception. By a sinister misinterpretation of casteism, religionism and other denominationalisms, political communalists paint them dubiously as minority rights. What a social disaster and semantic calamity! Therefore, a clear, transparent categorical definition of secularism and its constitutional non-

negotiability is necessary. Islam, Christianity, Hindutva have their religious autonomy and sacredness. This cannot be confused with minority status. That is counterfeit constitutionalism, lexical treachery. There must be an express declaration that minoritism is a social, occupational, economic low class, not a theological communally catalysed concept, its catchment area is under-privileged class, judged by socio-economic, cultural primitive standards and is not communalism or casteism, sectarian groupism or particular godist body. Christians and Muslims and followers of other faiths may be numerically fragmentary and like Parsis may be well-to-do. They may not be a socially disabled educationally depressed minority. Numbers and faiths are not the final criterion but socio-economically backward or suppressed and developmentally unequal status is the constitutional test. We cannot confound religious denomination with secular minority. Cultural disability, social backwardness and handicapped untouchability and occupational humiliation as well as other have-not features cumulatively make minority eligibility. The distinction is fine but real; to miss the difference and mix up the two is dangerous and contra-constitutional. Our Constitution and Freedom Struggle have blacked out caste, race and religion from its secular perspective. I strongly feel that there has been deliberate politicalisation with malignant motivation, fostered by religious leaders for grabbing state power and promoting disintegration and fragmentation of the Nation, its unity, fraternity and solidarity. All our parties are guilty of this vote-bank pathology, unprincipled ambition. A clear constitutional definition is overdue to save our secular quintessence.

The judiciary is correctly entrusted with vast powers of enforcement of human rights and socialist secular, democratic values mandated by the Constitution. Ecological, environmental, compassionate and humanist conditions are basic prescriptions. For this purpose we require judicial echelons and with deep commitment to the principles and structures promotive of the values aforesaid. The Executive and the Legislature are powerful instrumentalities. But if they fail or flout the Court corrects with its supremacy. So there must be a constitutional mandate to create a National

Appointment Commission. Its business will be to make investigation into candidate selection for judgeship. Their qualities, convictions faculties, class interests political antecedents must be examined, the objective being their reliability and capability to use their powers to achieve those great changes which would make Bharat truly socialist, secular and democratic. The right to life guaranteed by Article 21 must be within the reach of every little person—dignified life with assured shelter, medical facility, opportunity to work with just wages, right to education and development. This itself must be a separate fundamental right enforceable by writ or direction of the court. So too the other freedoms in Part III deserve judicial enforceability.

There is growing criticism of judicial corruption which cannot be blinked at or left to mere impeachment in Parliament. We, therefore, need an Invigilation Agency, a National Performance Commission or ombudsman with punitive powers. They must be of high stature and statesmanship sans political, communal and other considerations. Even fine citizens, lay but great can be good. A code of conduct for judges is equally necessary. All these desiderata demand dramatic constitutional amendments. Judges in a country with 42% below the poverty line shall not be a privileged category with pomp and perks. These considerations must govern ministers and high officials also since the socialist structure of society and State shall not be subverted.

At this point, it is necessary to observe that even in a minority community, there may be groups or families which are affluent and advanced as exceptions and creamy layers. They should not enjoy the special advantages conferred on the minority group otherwise they will misappropriate and manipulate all the preferential positions in educational and other business situations, leaving the backward neglected and forlorn. This factor must be clearly brought out in any constitutional amendment devoted to the benefaction of minorities.

By 2050, I fancy the people of India will awake, arise and battle for the meaningful fulfillment of the fundamentals of our Founding Deed. I have a dream that a powerful revolution, inspired by our Constitution and the rare

wonder of our value-heritage, will take shape and the little Indian with his little ballot and litigative access will redeem our tryst with our divine-human destiny and reach our glorious destination of pan-Indian egalite and establish a just society sans whales of disparity.

September 19, 2008

V.R. KRISHNA IYER